

REGIAM MAJE-
statem.

THE AVLD LAVVES
AND CONSTITV-
TIONS OF SCOTLAND,

FÁITHFVLLIE COLLECTED FV RTH
OF THE REGISTER, AND OTHER AVLD
authentick bukes, fra the dayes of King *Malcolme* the second,
vntill the time of King *JAMES* the first, of gude memorie:
and trewlie corrected in findric faults, and *errours*, committed be igno-
rant writers. And translated out of *Latine* in *Scottish* language, to the
use and knowledge of all the subjects within this Realme. with

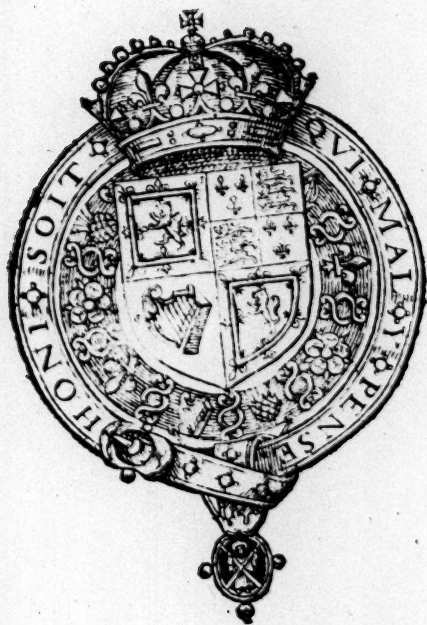
ane large table of the contents therof, Be *S^r. JOHN SKENE*
of Curriehill, Clerk of our Sovereigne Lordis Register,
Counsell, and Rellis.

QVHEREVNTO ARE
ADJOINED TW A TREATISES,
THE ANE, ANENT THE ORDER OF
proces observed before the Lords of Counsell,
and Session: The other of Crimes, and Judges
in criminall causes.

The Contents of this volume, followe.
in the twelfth Page.



AT EDINBURGH,
Printed by THOMAS FINLASON, Anno Domini. 1609.
Cum Privilegio Regie Majestatis.





SERENISSIMO, ET INVICTISSIMO

PRINCIPI, ET MONARCHAE,
JACOBO SEXTO

DEI GRATIA,

MAGNAE BRITANNIAE, (QVAE ANGLIAE
ET SCOTIAE REGNA CONTINET) FRANCIAE,
& HYBERNIAE REGI, CHRISTIANÆ RELIGIONIS
DEFENSORI, CHRISTI ECCLESIAE NUTRITIO,
ET PROPVGNATORI INCOMPARABILI, LITERATO
LITERATORVM, OMNIVMQVE BONORVM
MECOENATI ET PATRONO.

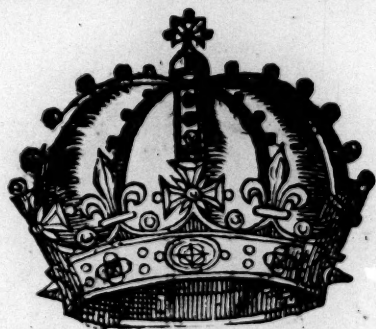
P. P.

HAS, SVORVM MAJORVM, SCOTIAE
REGVM LEGES, SEV REGIAS CONSTITVTIO-
nes, ex latino in patrium sermonem, fideliter conversas, Indice
rerum copioso, auctas: cum duobus tractatibus, Altero de
forma processus Judiciarij coram Dominis Concilij
in supremo Senatu, Altero de Criminibus
& Judicibus criminalibus;

PERPETVÆ OBSERVANTIAE, OBEDIENTIAE,
& gratitudinis ergo, Serenissima suae Majestati, &
Consiliis, & Archivis publicis,

HVMILLIMVS ET ADDICTISSIMVS
servus & subitus,

JOANNES SKENE
Consecravit Ddque.



Per Regem.

Regiâ auctoritate cautum & interdictum est, ne quis hos libros, quibus titulus est, *Regiam Majestatem, &c.* in suis Regnis & imperio, imprimat: aut alibi impressos, promercales habeat, intra viginti annos; sine consensu & licentia *Foannis Skenæj de Currie-hill*, Clerici Registri, Rotulorum et Concilij, aut ejus hæredum. Si quis adversus ea quid fecerit, aut admiserit; mulctabitur poenâ quingentarum librarum. Et præterea non solum libri impressi, sed etiam inter promercales habiti, ad vsum dicti *Foannis* et suorum hæredum vindicentur. Apud *Thetfurd*, sexto *Decembris*. 1608.

ALEX. HAY.





TO THE READER.



IT IS CERTAINE AND

manifest to all wise men, that there is *Necessitie* of
na thing mair necessar, or profitable *Lawes.*

to all kingdomes, common-wealthes,
cities, and to all assemblies of people
le. and together in ane societie, then
godlie, and gude lawes, knowin be the
people; swa that they can pretend na
ignorance thereof. For God shold be
worshipped be the Law, and speciallie

conforme to the precise rule of his awin lawes: Kings reignes, are re-
verenced, and obeyed be the law: they are taught how they shall go-
verne their people; and subjects be the law, knowes their office and
dewtie, toward their kings and inferiour magistrates; Congregations
of men dwelland together, be the Law understands their office and
dewtie, ilk ane to other. Gude & obedient subjects are rewarded for
their gude doings: and wicked and disobedient are corrected, and pu-
nished, for their trespasses, and transgressions. Finallie, the law is ani-
ma civitatis, jubet enim ea quæ facienda sunt, prohibetque con-

traria. But manie yeares bygane, the subtille cautellis, and greedie am-
bition of them, quha were called kirkmen, hes bene so great, that they
being secretaries to all Kings and Princes, be their auricular confes-
sion, wer not content therewith: but also did exerce themselves, and
all their sect, from the jurisdiction of Kings, alledgand them to be sub-
jects to the Pape of Rome onlie, quha vsurps jurisdiction, & power
aboue all Emperours, & Kings; affirmand his power, to be given to
him, be God: and the power of Emperours, and Kings, to be given be
him, to them. And that he may depone, and deprive them: and that
he is aboue all the counceils and lawes: et secundum plenitudinem
sue potestatis, he may dispense with all lawes: *Æa, supra omne jus.*

*Ignorance of the
Lawes.*

And to the effect, that he, and his Clergie, might reigne as Kings, a-

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boue Kings, be their vsurped authoritie, they caused all the Lawes of
 this Reaume, vntill King JAMES the first of gude memorie, to
 be concealed, formed, and published in the latine tongue, to the end,
 that all kings for the time, and almaiſt the laik men (as they call them)
 being ignorant of the latin, they micht for the better establiſhing of
 their estate & authority, continew & mentein Kings, & the people in
 ignorance, quhilk is ane great piller of their kingdome; and ſwa haue
 in their awin and onely power, the conception, and interpretation of
 the lawes: in ſic ſort, that they onely might figere, refigere, evertere,
 perfringere leges, & ijs abuti, ad luum quæſtum, & ambitionem.

*Knowledge of the
Lawes.*

Quhilk ſubtle craft, and ambitious doings, Our Sovereine Lord
 King JAMES the ſaxt, King of great Britanne, France & Ireland,
 defender of the Chriſtian Faith, &c. vnderſtanding, and again ſtan-
 ding the ſamin, being from his tender age broght vp in the knowledge
 of the truth, and conſtantlie perſeueir and in the profeſſion of the ſa-
 min, commanded the auld Lawes, of this his kingdome, to be ſighted,
 corrected, and collected in ane buke, and volume; quhilk is either be
 ignorance, or negligence of former ages, and ſome overſight of this
 our age wald haue bene ſuppreſſed, to the great hurt of the eſtate,
 quhilk can not ſtand, nor indure without gude Lawes; quhilks at his
 command, and be his ſpecial priuiledge, are imprinted and published.

Mair ower, his Maieſtie, being one benevolent and loving King to-
 ward his ſubjects, willing them to know his lawes, hid and concealed
 fra them of before, and to conforme their maner of living, and obedi-
 ence therevnto; and vnderſtand and that lawes can not be profitable,
 to them, quha are ignorant thereof, commanded me promoted be his
 Maieſtie, to the office of the Clerk of Register, Councell and Rolles, to
 tranſlate and convert the ſamine auld Lawes, forth of latin in En-
 glish, that the ſamine may be known to all his ſubjects; and ſpeciallie
 to them quha are ignorant of the latin tongue, quhilk I haue done dili-
 gentlie, and faithfullie, conforme to my ligeance and dewtie, not fol-
 low and the words, bot the ſentence, as it becomes ane trew and faith-
 full interpretour to doe: as thou (gentle Reader) mair plainlie may
 vnderſtand, be the reading of the ſamine.

*Authoritie of the
Lawes.*

Be reaſon of the antiquitie of the Lawes, and obſcuritie of the ſa-
 min, expounded be na man, in time bygane, ſundrie learned men hes doub-
 ted of the authoritie thereof, quhom I pray, and request, to conſider
 theſe reaſons, & arguments following, before they giue ſentence rash-
 lie. Gif any man is convict, and filed in the Juſtice Air; the Crowner
 ſould

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to the Reader.

ould haue na mair of his gndes, then he aucht of the law to haue. Jac. 3. parl. 14. c. 102. *Quhereanent ane speciall law is made be King Malcolm 2. c. 3.*

Be quhom it is statute, that the Crowner sall haue the dantonned horse, vnschod, pertaineing to persones justified in the Iustice Air, quhilk is interpreted and vnderstand of dantonned horse, depute to worke, and not to the saddle, that was never shod, nor vsed to shoone. Jac. 3. parl. 14. c. 113. *It is statute and ordeined, that sex wise men, and discreit, quha best knowes the lawes, sall be chosen, to see and examine the bukes of the Law: that is to say, Regiam Majestatem. Quoniam Attachamenta. Iac. 1. parl. 3. c. 54. The like commission is given be Iac. 3. parl. 14. c. 115. to advise, command, and refer againe to the next Parliament, aient the reduction of the Kings Lawes, Regiam Majestatem, Actes statutes, and vther bukes, to be put in ane volume.*

Likewise ane commission is given to certein Noble men, and Counsallours be Queene Marie: the first day of May 1566. zeares, to vesse, sight, and correct the Lawes of this Realme, beginnand at the Bukes of the Law, called Regiam Majestatem, and Quoniam Attachamenta. The like commissions are repeted, and granted be Our Soveraine Lord, in his Parliament 5. and Parliament 12. Committers of wilfull errour, being vpon assise, or inquestes, sould be punished after the forme of the Kings Lawes, in the first Buke of his Majestie, Contra temerè jurantes super assisam. Iac. 3. parl. 6. c. 47. parl. 8. c. 63. quhilk penall Law, is expresselie written. lib. 1. c. 14. of Regiam Majestatem. Na essonzies sould be admitted in Court, bot these quhilkis are written in the Law before Iac. 1. parl. 9. c. 114. that is, in the first buke of Regiam Majestatem. c. 8. Quoniam Attachamenta. c. 33.

Favourers and menteiners of trespassours, sould be punished after the forme of the Kings Lawes; and of Regiam Majestatem. Jac. 3. parl. 14. c. 98. Mention is made of sex termes of ane summons, contained in the law, Iac. 1. parl. 2. c. 112. quhilks are speciallie written in the first buke of Regiam Majestatem c. 6. Slauchter of Salmond is discharged in forbidden tyme be the law. Iac. 1. parl. 1. c. 10. quhilk forbidden time is prescriued in the buke Quoniam Attachamenta c. 87. Dome sould be falsified incontinent, be him quha is present, and be him quha is absent within fourtie dayes. Iac. 1. parl. 9. c. 116. conforme to the auld Law. Quon. Att. c. 13. stat. Wilh. c. 10. Mair over
the

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the proces of falsing of domes prescribed in the places foresaid, is altered and corrected be Iac. 4. parl. 6. c. 55.

Na exception sall availe against the kings brieves, quhither they be lang or short written, swa that they hold the forms of the breive statut in the law of before. Jac. 1. parl. 9. c. 113. Mairover it is statut, and ordained that na breive, nor other letters be given to na partie, but after the forme of the breives, of the Chancellarie, used in all times of before. Jac. 4. parl. 3. c. 24. Quhilk forme of breives, is particularlie prescribed and written in Quoniam Attachiamenta, c. 49. The fourtie dayes, or thrie sunnes, granted to the persewer, persevering for slaughter. Quoniam attach. c. 59. Is discharged, and abollied be Jac. 4. parl. 3. c. 28. The heires of Barones, Gentlemen, and frieholders, sall haue for the heireship of moueable gudes, the best of ilk ane thing, after the statute of the Burrow lawes, and as is conteined in the samine. Jac. 3. parl. 7. c. 53. Quhilk statut, anent the heireship of Burgeses, is extant amongst the Burrow lawes. leg. burg. c. 125.

The libertie of the Gilde, is ratified, and confirmed. stat. Wilh. c. 35. The Aldermen, Baillies, and counsell of Borrowes, negligent in punishing of the VVardains of Craftismen, may be challenged, and convict be the Chalmerlane, and his deputis, in the Chalmerlane aire, ance in the zere. Jac. 1. parl. 7. c. 102. c. 103. The Chalmerlane aire neides not to be continewed, fra day, to day. Iac. 3. parl. 5. c. 38. Gif ane Burges usurpes, or uses the libertie of ane other, and is not content with his awin liberties, he may be convict, and punisshed, in the Chalmerlane aire, as ane forestaller. stat. Wilh. c. 35. King Iac. 1. parl. 4. c. 68. ratifies, and approves the statut made be David. 1. anent the Elne, and other measures, and weichts, quhilk is set downe in the treatise de ponderibus, & mensuris.

Na essonzeis sould be admitted in judgement, but these, quhilkis are written in the law before. Jac. 1. parl. 9. c. 114. quhilkis are shortlie expressed. stat. Wilh. c. 26. The law anent the saterdaies stoppe, is ordained to be kept: quhilk Law, and ordinance, is speciallie set downe. stat. Alex. c. 16. As the maist authentick bukes beares, albeit it is ascribed to king David. 1. The midstreame of fresh waters, quhere cruves stands, sould be frie, be the space of five fute. Iac. 4. parl. 2. c. 15. According to the statutes of king Alex. c. 16.

*Exhortation to
obey the Lawes.*

These reasons, gentle Reader, and manie other arguments, quhilkis I for shortnes premit, proves necessarlie, that all the statuts and constitutions, written in these bukes, were authentick, and publick lawes,
m ade

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to the Reader.

made Kings of Scotland for the time, for gude rule and government of their Subjects and Realme: Albeit some of them are abrogat, be posteriour lawes, or be desuetude, are obscured; and nevertheles, being profitable and politick, may be reduced in use and practick, for good administration of justice, and quyetnes of the realme. It is therefore thy dewtie, conforme to the law of God, and thy naturall ligeance, quhereby thou art bound and oblissed to Our Sovereigne Lord the King, to acknowledge his bountie, and loving favour toward thee, being so grations and favourable, causing his lawes to be made patent and knawen to thee; and swa to consider, in quhat service and offices thou art oblissed to his Majestie, to frame and apply thy life and obedience, conforme to the lawes, and to doe richt to every man, as thou wald desire others to doe to thy selfe, and na other wise. Albeit in time bygane, sundrie men nicht haue pretended, and used excusation of their faults, and trespasses, be the ignorance of the lawes, thou na way can doe the samine, be reson the lawes are published & notified to thee, be his Majesties authoritie; and thou sould seik the knowledge & understanding thereof, and giue obedience conform to the samine, to the eternall God, and to thy Sovereigne Lord and King. Quhat I haue done, I remit it to thy judgement and censure: I haue travelled meikill, ane laig time; bot how profitable, I can not declare. I am the first that ever travelled in this mater, and therefore am subject to the reprehension of many, quha sall follow after me; quhom I request maist friendlie to take in gude parte, all my doings. For my purpose and intention was to correct, interpret, and reduce the auld lawes, to their awin integritie, that they might be understand with some fruze be all Our Sovereigne Lords Lieges, and that thereby, they might honour their God, obey the King, to their awin particular well, and to the universall commoditie of the common well of this Realme, their native Cuntrie.





AD CL. V. DN. JOANNEM SKENAEVM ARCHI-
vis præfectum, pro infinitis suis laboribus in libros Regiæ
Majestatis, & in amicitia tesseram ἐν φιλοφροσύνῃ.

Magnatibi Skenæ, tuo nunc gloria factò
Exsurgit: priscas dum promissis in ordine leges;
Et Regum rejeras jussa, ac monumenta priorum;
Semisepulta quidem, multisq; incognita seclis:
Sic generi antiquo nos reddis: & inclita per te,
Omnibus in lucem, pia Virgo Astræa refulget:
Nuper, ab indignis, nobis redi viva lacunis:
Scotum ergo eximium, nunc felix Scotia, jactes
Ipso tuum: felix tantis natalibus una.

Quid tibi pro merito, poterit promittere virtus?
Quis te, virtutesq; tuas, ignorat ineptus?
Justitiæ, jurisq; comes, Ithemidosq; sacerdos,
Qui nobis, patriæq; decus, qui pectore toto,
Virtuti invigilas, meritoq; exurgis in altum.
Maeste equidem virtute tua, (vir maxime) felix
Pone metum, aeternum spondent tibi sidera honorem.
Et vivet nunquam peritura gloria famæ:

Nil duraturum mundus creat, ignis & aer,
Cunctaq; corruptis, obeunt elementa figuris.
Quin & purpureus stellarum exercitus, alto
Cardine cælorum, occasus patiuntur & ortus:
Quicquid habens ortum, finem timet: omnia poscit
Terra, vorace sinu: nihil immortale sub astris:
Ast opus ex ætæ est, quod non Jovis ira, nec ignis,
Nec poterit ferrum, nec edax abolere vetustas,
Regia dum vasti, resonabit machina mundi.

Ergo vale Skenæ, tibi laus maxima: sic tu
Progredere, O felix, fatoq; accede vocanti,
Invidiaq; omni major, super astra triumphas.

JOANNES RUSSELLVS J. C. & in
supremo Senatu, Advocatus.

IN PRISCAS SCO-
TORVM LEGES, SVMMA DOCTIS-
SIMI VIRI JOANNIS SKENAEI INDVSTRIA,
elaboratas et in lucem editas,

Carmen *προσευχῆς*.

Lex legum regumq₃, *Arctoa* Britannia, *faelix*
Terq₃ quaterq₃, *Stuartorum* celebrata trophæis,
Tot Regum procerumq₃ sacratis legibus aucta;
Leges, quæ multi jactura temporis olim
Delituere, annos sex centos vsq₃ sepultæ,
Ecce novo jam sole micant: In luminis oras
Elicuit SKENAEVS, sit pro talibus ausis
Munere regali dignus: qui Regis honori
Consultit, patriæ charus, populiq₃ saluti.
Quippe, decus magnum O Regum, illibata priorum
Quam pia, quam sacræ scripturis consona jura,
Non secus *Augiæ* ac stabulum præ divite censu,
Herculea rursus purgatum reddidit arte;
Ut quæ lucifugis congesta cubilia blattis
Fussa prius fuerant; formis numerisq₃ novata
Omnia, ceu foetum, lambendo protulit ursus:
Tantus amor subiit patriæ, quo præside tantum
Quantum legifero profecit *Sparta* *Lycurgo*.
Hoc tibi jam superest, meritis ut talibus, ergo
Regis honos populiq₃ salus, SKENAEI feraris.
Scotica res vigeat docto sub principe *faelix*,
Auspice te, et vivet longum stirps clara *Stuarti*:
Ipse, tui natiq₃, premant vestigia, semper
Cresce diu, ut nobis tot regia munera promas.

IN ZOILVM.

Verba vomat Moinus naso crispante canina,
Hic, aliud victum non habet vnde petat:
Sed tibi ceu furdo narretur fabula; saxo
Latrantem petere at non decet vsque canem:
Scripta foro manibus toto si jactitet, imis
Scindantur nervis, contrahat aut chiragra;
Sin pedibus scalpat (*Bærræus* sic nomine notus)
Hos vrant, superest, flamma vorax, podagra.

JAC. CAR. *Ibn.*



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THE LAVVES OF KING MALCOLME MACKENNETH, SECUND OF THAT NAME:

QVHA WAS SONNE TO KENNETH THE
THRID, AND BEGAN TO REIGNE IN THE
zeare of the Creation of the world 4574. of Christ 1004.

*These Lawes are Authentick. Jac. 3. parl. 14. c. 113.
and c. 3. fourt verse of this samine Treatise.*

WARDE AND RELEIF. CHAP. I.



KING MALCOLME
gaue and distributed all the
lands of the Realm of Scotland
amongst his men.

2. And reserved na thing
in propertie to himselfe, but
the Royall dignitie, and the
Mute-bill, in the Towne of
Scone.

3. And all his Barons gaue
and granted to him, the warde
and releif of the heire of ilk
Baron, quhen he sould hap-
pen to deceis, for the Kings sustentation.

A

THE

King Malcolm the secund.

THE FIE OF THE CHANCELLAR AND of his Clerk. CHAP. 2.

Item, they ordeined to the Chancellor, the fie of the great seale; that is, for ilk Chartour of ane hundreth pound land, & aboue that, the fie of the seale, ten pounds. And to his Clerk, for the writing, twa markes.

2. *Item*, for ane precept of saisning, conforme to the chartour, to the Chancellor for the fie of the seale, ane mark: & to his Clerk twa shillings.

3. *Item*, for ane letter of a&ornay or protection, for the fie of the seale, twelue pennies: and to the Clerk for the writing, thrie pennies.

4. *Item*, for ane brieve closed with walg, to the Chancellor, sex pennies; and to the Clerk for writing, thrie pennies.

*Ane nine pennie
Brieve.*

4. *Item*, for ane letter of remission given be the King for the slaughter of a man, to the Chancellor, 40. shillings: and to his Clerk for the wryting, sex shillings aucht pennies.

6. *Item*, for ane letter of Presentation to ane Kirk, or to ane Hospitall, to the Chancellor, fourtie shillings: And to his Clerk for the writing, aucht pennies.

OF THE FIE OF THE JUSTITIAR HIS Clerk, and of the Crouner. CHAP. 3.

Item, they ordeined to the Justitiar for his sustentation, ilk day of his justice air, five pounds.

1. *Item*, to his Clerk, for ane man quha is vnlawed (*for his absence*) or for ane man quha componed (*with the Justitiar*) twa shillings. And for ane man quha is clenged be ane assise for drawing of him forth of the Rolles, foure pennies.

Jac. 2. parl. 6. c.

21.

Jac. 3. parl. 14. c.

113.

Edw. 1. Ar 3. c. 10.

Hen. 8. Ar. 27. c.

11.

3. *Item*, they ordeined to the Crouners, for their fie, for ilke man vnlawed, or that compones, ane colpindach (*ane quyach, or ane young kow*) or threttie pennies. And for ane man quha is clenged na thing. }

4. *Item*, quhen a man is condēned to the death before the Justitiar, the Crouner sal haue all the dantoned and tame horse, not shod; al the sheip within twētie; al the goats and swyn within ten; al the grains and cornes lyand in bings, or in broken mawes, and all

King Malcolm the secund.

2.

all the vtenfill or domicill of the house, within the inwart part of the house; that is, within the cruke hing and vpon the fire.

5. *Item*, for ilk man not found the time of the attachment, the Crowner sall remain at his house quhere he dwels, be the space of ane day, and ane nicht; and sall haue his reasonable sustentation for himself, & twa of his servants; and for other twa men brocht with him to be witnes; and for his Clerk, twa shillinges, and sall take na mair.

6. And gif he may not find that man, quha is indyted, he sall arrest all his moveable gudes, and vnmovable, vnder sure pledges, to answer before the Justitiar.

THE FIE OF THE CHALMERLAN.

CHAP. 4.

Item, they ordained for the sustentation of the Kings Chalmerlan be zear (*yearly*) twa hundreth pounds of the elcheits of the burghs, and the rett of the amerciaments, toll, and custumes of the Kings burghes.

OF THE FIES OF THE STEVVARD OF

Kings house, and of others his domesticks. CHAP.

Item, they ordeined for the fie of the steward of the king fourtie pounds.

2. *Item*, for the fie of the Clerk of the Liveraies of the house, twentie poundes.

3. *Item*, for the fie of the Clerk of the kitchin, ten pounds.

4. *Item*, for the fie of the Paniter, ten pounds.

5. *Item*, for the fie of the Butler, ten pounds.

6. *Item*, for the fie of the Bakster, five pounds.

7. *Item*, for the fie of the Browster, five pounds.

8. *Item*, for the fie of the master Cuke, five pounds.

9. *Item*, for the fie of the master of the Lardner, five pounds.

10. *Item*, for the fie of the Porter, five pounds.

11. *Item*, for the fie of the Porter of the kitchin, five pounds.

12. *Item*, for the fie of the Porter of the hall, five pounds.

13. *Item*, for the fie of the Porter at the Kings chalmer, five pounds.

14. *Item*, for the fie of the maker on of the fire in the Kings hall, fourtie shillings.

King Malcolm the secund.

15. *Item*, all others the Kings servants, of lesse estate ilk ane of them fall haue fourtie shillings for his fie; or mair be consideration of the King his steward, or others of the Kings Councill.

THE FIES OF THE CONSTABIL AND Marshell, and of their jurisdiction.

CHAP 6.

Edw. 1. An. 28. c. 3

Rich. 2. An. 13. c. 2

Al. twa.

I*Tem*, they ordeined for the Constables fie, ten pounds.

2. *Item*, for the Marshelles fie, ten pounds.

3. And that all transgressions committed vnder the wand of the kings Marschel (*that is within^a twelue ligs*) fall be determed in the Kings Court, before the Marshall and the Constable, and conforme to the quantitie of the fault or cryme, fall be punished.

THE FIE OF THE SCHIREF HIS

Clerk and Serjants.

CHAP. 7.

Iac. 2. par. 13. c. 60.

Iac. 4. par. 3. c. 2.

Iac. 4. par. 4. c. 6.

Iac. 6. par. 11. c. 74.

I*Tem*, they ordeined for the Schirefes fie, ten pounds to be vp- taken of the elcheits of his awin Court.

1. *Item*, for the fie of his Clerk, of ilk vnlaw, twa shillings.

2. *Item*, for the Serjant, ane colpindach (*ane quyach, ane zoung*) threttie pennies, of ilk vnlaw ordeined to be taken vp.

THE VNLAWS OF COURTS OF THE JV- sticiar, Schiref, Burghes, Chalmerlan, Knights, and of frie-halders.

CHAP. 8.

Hen. 3. An. 7. c. 14.

Edw. 1. An. 3. c. 6.

Iac. 6. par. 11. c.

70. par. 15. c. 267

I*Tem*, the amerciament in the Justice Air before the Justiciar, v- pon the North side of the Scottes sea (*the water of Forth*) is aucht kye, and to the Crouner, ane zoung kow; and to his Clerk twa shillings. And bezond the Scottes sea, as in *Lowthian*, and in these partes, betwix the water of *Forth* and *Tine*, ten poundes, and ane colpindach, or threttie pennies to the Crouner, and twa shillings to his Clerk.

2. *Item*, ane amerciament before the Schiref, fall not exceid saxtene shillings; and for his Clerks fie, twa shillings, and ane colpindach, or threttie pennies to the Schirefs Serjant.

3. *Item*, ane amerciament within burgh, before the Provest and Baillies, aucht shillings.

4. Before the Chalmerlan, fiftie shillings, and twa shillings to his Clerk.

5. To

King Malcolm the secund.

3.

5. To the Serjants of a burgh of ilk man vnlawed 4. pennies.

6. Al^a Barons fall receaue, and vse the lawes, as they are v-
sed in the Kings court, before the Justitiar, or the Schiref; & fall
vse sic amerciaments, lawes, & fines, as is vfed before the Schiref.

*The vnlaw of
Baron Court, is
fourtie shillings.*

7. *Item*, it is ordeined, that Knights, quha halds (*their lands*)
of Barons, fall receaue lawes, and obserue them in their Courts,
quhe necessitie requyrs, as Barons vses to do; bot they sal not hald
Courts of life and limme; bot onely of injuries, and non reason;
that is, *wrang* and *vnlaw*. And they fall take the ane halfe of ane
vnlaw, vfed in the Baron court.

*Jac 2 par. 4. c. 64.
and consequently
twentie poundes.
Jac. 6. parl. 15. c.
167.*

8. And they quha halds (*their lands*) of Knights, (*quha are
called subvassours*) sal keip and obserue the lawes in al their courts,
and the halfe of the amerciament, as in the Courts of Knights is
vfed. And swa forth of others of inferiour estate.

THIFT COMITTED WITHIN THEIR

lands quha halds of Barons.

CHAP. 9.

Item, gif any man committes thift within the lands of the frie-
holders foresaids; that malefactor sould be attache d, and con-
voied to the Barons prision, within quhaes Baronie he was taken,
and there fall he be condemned: And the Baron fall haue the e-
scheit of the gudes pertening to the malefactor.

*Stat. 12. c. 18.
Stat. 14. c. 4.
Val. 1. lib. 1. c. 4.
the latin bnde.*

2. Except the Lord of the land, quhere he was taken, be pri-
viledged heretablie be chartour.

RESETTERS OF MALEFACTORS.

CHAP. 10.

Item, they ordained, that na Earle, nor Baron, or any other
man, fall reset any malefactor within his dominion; vnder
the paine of the tinsell of his court for ever.

*Jac. 1. parl. 2. c. 37
Jac. 5. par. 7. c. 97.
Jac. 6. parl. 12. c.
144.
Stat. Wilh. c. 7. 6.
Rob. 2. c. 10.*

THE PLEYES OF THE CROVNE AND *paine thereof.*

CHAP. 11.

Item, all Reavers committand roborie, deforciers of wemen,
murtherers of men, justlie or vnjustlie; wicked, & malicious
burners of houses, sould compeir and answer before the Kings
Justitiar.

*Stat. Alex. c. 14.
c. 2.*

2. And gif they be condemned; all their gudes fall pertain to
the King as escheit, and the Barons fall haue na parte thereof.

*Leg. burg. c. 6.
Quon. Ass. c. 76.
Hen. 3. an. 9. c. 17*

King Malcolm the secund.

THE PAIN OF TREASON AGAINST
the King. CHAP. 12.

Lib. 4. c. 1. 5. 17. **I** Tem, it is statute, anent false traitours against the king, that all
Iac. 1. par. 1. c. 3. their gudes moveable, and lands, fall pertain to the King, with-
Iac. 5. parl. 4. c. 8. out any recoverie thereof, be their heires.

2. Except the kings special grace (*the kings remission*) intervein

3. And sic like of other malefactors, hauand lands and here-
tage, or any other gudes, and haldand of the king; the king fall
haue them all, and the malefactor fall be condemned to the
death without redemption.

MALEFACTORS HALDAND OF BARONS;
and of the pleyes of the Crowne. CHAP. 13.

I Tem, it is statute that malefactors haldand of Barons, fall be
condemned in the like maner.

2. Except the foure pleyes foresaids; that is, roborie, revising
of wemen, murther, and burning, quhilks pertaines to the kings
Crowne.

Sup. c. 11.

Lib. 4. c. 11.

Quon. Att. c. 19.

3. And the Barons hes na power to judge, intromet, nor de-
termine the samine.

WILFUL SLAUGHTER, AND MAIN-
teining thereof. CHAP. 14.

I Tem, for samekill as it hes bene sundrie times seene, that di-
verse wicked and vnjust men, hes slane faithfull, peaceable and
well livand men, for invy, or be procuracion of other men (*for
fie and profit*) or for desire of their wiues, lands and geir.

2. And the saides men-slayers hes entered be this way, in the
1. Kings. 20. 19. possession of the lands and gudes pertainig to them quha were
slane. And to the effect they micht bruke and possesse the samine
peaceable, they als wa did slay all the friends, and speciallie the
zoung men of them quha wer slane be them of before.

Genes. 9. 6.

Exod. c. 21. 12.

Levit. 20. 13.

Mat. c. 29. 52.

Deut. c. 19. 4.

1. Kings c. 21. 19.

3. And the said malefactors hes bene reset and mentained be
Earles and Barons, against the Law of God, and of man; as it is
said, *He quha slayes with the sword, fall be slane be the sword.*

4. It is statute, that the King fall haue just sut (*and action*) a-
gainst all these malefactors; not onely of the malefactours them-
selues, bot also of the Earles and Barons resetters of them.

5. Be-

King Malcolm the secund.

4

5. Because all the chief and principal men quha does swa, are *Rob. 3. 10.*
fals & men sworn against God, the King, and the Realme.

THE CROVVERS OFFICE. CHAP. 15.

GIf any man commit publick, or privat murther; the commit-
ter of the publick murther salbe incontinent followed, with
huy and cry.

2. And gif he is apprehended be that way, incontinent he sal
be retined, imprisoned, & sal not be relived vpō borgh (or cation)

3. Nevertheles, he may be latten to borgh, be the Kings letter
vntill the Justitiar come to hald his air and court. *Hen. 8. An. 1. c. 7.*
Edw. 6. An. 2. c.

4. Bot it is not murther, quhilk is committed be ane misfor- *3. c. 24.*
toun (*chance, chaud melle*)

5. Bot publick murther is, quhen ane is slane be fore thought
felonie.

6. The Crouner, or the Schiref, or the Provest (*of the burgh*)
fall take inspection of his wounds, quha is slane, & fall cause their
Clerk make ane abrigement of them, and they sould cause burie
the corps.

7. Privat murther is, quhen ane man is slane, or drowned in
the water, or is found dead in any place; in this case, the finder fall
raise the hoyes, as said is.

8. The Crouner fall come, and take inspection of the dead
bodie, and fall take inquisition of all suspitions.

9. And gif any is suspect, he fall be attached as said is. And gif
there be na suspicion, there fall be na attachment.

10. The corps of the dead man salbe buried, at the Crouners
command.

11. And the like salbe done, in al the pleies of the Crown per-
teining to the Crouner, vntil the comming of the Justitiar.

OF ATTACHMENTS PERTEINING TO the Crouner. CHAP. 16.

All attachments perteines to the Crouner, quhere the accu- *1ac. 1. parl. 13. c.*
sers, makes mention in his accusation, of the breaking of the *139.*
Kings peace. Otherwaies, gif he makes na mention thereof; the *Vid. 1ac. 5. parl. 3.*
attachment perteines to the Schiref. *c. 5. parl. 4. c. 33.*

REGIAM

IN MY DEFENCE

GOD ME DEFEND. 5.



THE FIRST BVKE OF REG. MAIEST.

THE PREFACE.

¶ Two things are necessary to ane King; ARMES, to dantoun his enemies: and LAWES to rule his peaceable subjects.



THE KINGS MAJESTIE, sould nocht onelie be decored with Armes, against Rebels, and makers of insurrection contrare him, and his Realme.

2. But also, he sould be armed and garded with gude lawes, to rule his peaceable people and subjects.

3. That our most glorious King, haueing the governamēt of the Realme, may happilie

liue, baith in the time of peace, and of weirfair. And may rule the Realme, committed to him be GOD (*quha hes na superior, bot the Creator of heauen and earth, reuler of all things*) in sick ane maner, that with the force of his richt hand, he may breake downe the proudnes of the vnreulie and vndantoned people. And with the Scepter of equitie, he may moderat his justice toward his humble

B

and

King David the first sone to Malcolm 3. was king in the zeir of the world. 5094.

Of Christ. 1124. And raigned 29.

zeiris in quhis time thir lawes were writin.

These bukes cōteinis authētick lawes

Iac. 1. parl. 3. c. 54

Iac. 3. parl. 14. c.

115. parl. 6. c. 47. parl. 8. r. 63.

The first Buke,

and obedient subjects. And swa all the dayes of his life, he may be victorious in vanquishing his enemies: and ane equall and just Judge at all times to his faithfull subjects.

4. It is manifest to all men, how elegantlie, valiantlie, and wiselie he hes vsed his armes, in time of weirfair, in withstanding the quiet conspiracies of his enemies.

5. And likewise, na man deubts of him, ane lover, and ane auctor of peace, how justlie, discretlie, and mercifullie he hes shawin himselfe to his subjects, in the time of peace.

6. For in his court of justice and judgement, there is sick vprightnes and equitie, that in it, na Judge is so shameles, or proudlie presumptuous, that anie maner of way he dare decline fra the right path of justice, or exceid the way of the trueth.

7. In that court, the great power of the aduersare, oppresses nocht the pure man. Nor the love, favor, and grace of the friend, does repell and debar anie man from the straight way of judgement.

Iac. 1. parl. 3. c. 48

Iac. 4. parl. 6. c. 49

8. It is vnpossible to comprehend in writ, vniversallic, all the Lawes of this Realme: Nocht onely, be reason of the ignorance of writers, but also of the confused multitude of causes (*and Lawes*)

9. Nevertheles some generals, are vsed in courts, quhilks to put in writ is na absurditie, nor presumption; but verie necessarie for the helpe of the memorie.

10. Therefore I haue determined, to write ane parte thereof, purposlie in ane vulgare and common stile, and in words commonlie vsed in courts: At command of King DAVID, with the counsell and advise of the hail Realme: als well of Clerks, as the rest of the people. That all the inhabitants thereof, may learne and haue knowlege of the samine. And swa I begin in this manner, and be this distinction.

OF CRIMINAL CAUSSES PERTEINING TO the Kings Crowne, and to his Justitiar.

CHAP. I.

Of the jurisdiction of al Iudges and quhat action pertenes to ilk judge untill the sext chapter.

Glarv. lib. 1. c. 1.

Pleyis (*mutes or actions*) are Civill, or Criminall.

2. Civill actions are, quhen the controversie is, anent pecuniall pains, or lands, and gudes.

3. Criminall causes are, quhen controversie is anent the paine of

of blude, or of life and limme (*cutting of anie member*)

4. Of criminall cautes, some pertienes to the Crowne (*court*) and his Justitiar: and some to the Schirefs of the countrey.

5. To the Kings court pertiens the crime, quhilk in the Civill law, is called the crime of lese Majestie: as of the Kings death, or sedition against the King, Kingdome, or the Kings hoast, or armie.

6. The committers of these crimes, may be punished, nocht onelie for anie fact, or deid, but also for their intent and purpose.

7 *Item*, for the fraudfull heiling and concealing of treasure, or hurde: the mure or pley of breaking of the Kings peace, man-slauchter, roborie, revising of women, wilfull burning, murder, the crime of falsset: as of fals measures, false wechtes, false writs, false money; and all other trespasses, quhilks sould be punished be death; or be cutting or tinsell of any member of the bodie. *Quon. Attach. c. 54.*

8. Except the crime of thift, and man-slauchter, quhilk pertiens to the Schiref, quhen ane certaine accuser compeirs to perfew. *Quon. Attach. c. 59. Jac. 4. parl. 4. c. 45. Henr. 3. An. 9. c. 17.*

9. But thift and man-slauchter taken vp be dittay, sould be determined before the Justitiar, be ane assise of neighbours. Because in sick cases, the King, and his Justitiar are perlewers.

CAVSSES PERTEINING TO THE KIRK,
and of the richt of patronage.

CHAP. 2.

THe pley of dowries and of testaments, pertiens to the Ecclesiasticall jurisdiction.

2. As alsua, the pley of advocation of Kirks, and the richt of patronage, pertiens to the samme jurisdiction. *Lib. 2. c. 36. Lib. 3. c. 33. Jac. 6. parl. 1. c. 7. parl. 7. c. 102. parl. 12. c. 119. c. 158.*

3. Bot ane laick patron sould be ware, that quhen ane Kirk or vicarage, fall happin to vaeck, that he present thereto ane wor-thie man, qualified in literature, life, and maners: within foure moneths (*after that he knowes the Kirk to be vacand*) that be the longer delay of the presentation, he prejudge nocht himselfe. *Edward. 1. An. 13 c. 5. Edward. 2. An. 9. c. 13.*

4. Be reason of the quhilk delay, the Bishop of that place, or diocie, be the Canon law, may present and provide ane

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person for that benefice: quherethrow great dissention may arise.

Glanvil. lib. 1. c. 1.

CAVSSES PERTEINING TO SCHIREFS.

CHAP. 3.

THe pley of Barons perteins to the Schiref of the countrie
(*for pleyes decided in Baron courts, may be reduced in the Schiref court*)

2. And ane reasonable terce or thrid perteining to wemen, be deceis of their husbands.

3. And actions ended in judgement amicable, with consent of the parties: quhilk either of the parties does nocht keip and fulfill.

4. The pleye anent native slaves (*bond-men*) quha are fugitiue fra their richt masters.

5. Of making of homage, and receaving of releaves.

6. The mute or pley of laik men (*temporall men*) and findric others, quhilks is nocht necellare to exprime in this place.

7. It perteins to the Schirefs, in respect of the fault, or failzie of the Barons, to cognosce vpon tulzies, straits, or wounds.

8. Als wa, quhere the persewer alledges the breaking of the

Edward. 1. An. 6. Kings peace.

c. 8.

Quon. Attach. c.

54.

ACTIONS PERTEINING TO BISCHOPS Barons, and Baillies of Bourghs.

CHAP. 4.

OF Civill pleies, quhilks are nocht Criminall, and touches nocht life and limme, some perteines to Provests and Bailies of Bourghs and Cities: Others to the courts of Barons, Earles, Bishops, Abbats, and other frie halders; quha hes their proper courts, conforme to the tenour, of their chartours.

Read the annotations in the last in buke.

Leg. M. l. c. 2. c. 11

2. And some criminall actions perteins to some of the Judges foresaids, and to their courts: And chieflie to them quha hes power to hald their courts, with sock, sack, gallous, and pit, toll, and thame, infang-thief, and outfang-thief.

3. Except alwaies the pleies perteining to the Kings court, as said is.

ACTI-

ACTIONS PLEADABLE BEFORE SCHIREFFES, JUSTITIARS, and Baillies of Bourghes.

CHAP. 5.

PLeyes anent richt and free tenements (*propertie and heritage*) be the Kings brieve of richt, pertienes to the Schireffes, quhen the court of Barons is proven to haue faillied in doing richt and justice: The maner quhercof, fall be declared afterward in the awin place. *Glanv. lib. 1. c. 4.*

2. The pleie anent slaves or bond-men, sould be pleaded be the Kings brieve, before the Schiref in his court.

3. The brieve of the recognitions of Mortancestric, and of Novell disfailin (*ejection and spoilzie*) sould be determined before the Kings Justitiar.

4. The brieve or pleie of purpresture, sould be determined before the Justitiar.

4. The brieve of distres (*of poynding*) for dettes, fall be determined before the Justitiar, Schireffes, Baillies of bourghs, as it fall please the King be his letter, to command them particularlie, within their jurisdiction.

THE FORME OF CITATION, ANENT HERITAGE, in the brieve of richt.

CHAP. 6.

QWhen anie man compleins to the King, anent his heritage and lands, quhilks ane other halds, and deteins fra him be force and violence, vnjustlie; then he fall raise the Kings brieve be the quhilk the possessor fall be summoned, to compeir in the court, and answeare to the complaint, within the space of fiftene dayes: And swa fra court to court, be the space of fiftene dayes. *Glanv. lib. 1. c. 5.*
The proces of the brieve of richt.

2. The summons fall be made (*execute*) be ane lawfull summoner (*or officiar*) before lawfull and sufficient witnelles.

3. Because it is necessare that everie summoner (*executer of summons*) fall lawfullie verifie his summons be witnelles to haue bene lawfullie done: before the defender complained vpon, be compelled to make answeare: except he willinglie and fulishlie answeare to the said summons. *Quon. Attach. c. 3.*
Stat. David. 2.
c. 52.

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4. Also the summoner fall haue in readines, the execution of summons; because he sould nocht pas forth of the courte, to remember, or to make record of them, it being his awin deid.

Jac. I. parl. 9. c.

112. c. 192.

Quon. Attach. c.

27.

5. First, seing all summons, sould be directed and executed be the command of some man; be the law, it is necessare, that he quha directs and commands the samine to be done, fall haue ane generall or speciall power, for ministracion of justice, given and granted to him, be the King, or be some other man haue and power from the King to grant the samine.

6. For gif anie summons fall be executed and made without the command of ane superiour judge, haue and power, as said is, the samine is nulle and of nane avail.

7. It is necessare that the executer of the summons fall declare and exprime in his executions, his awin proper name, with the name of his office: As gif he be the Kings Mair, or his *Toscheoderach* (*ane serjeant, ane officiar, ane Mair of fie*) or anie other name of office perteing to the execution of summons.

Quon. Attach. c.

64.

And siclike, he sould declare all other things, to the quhilk he quha is summoned, sould make answer.

8. The clauses of summons are these. First, the name of him quha is summoned, sould be named (*the name of the defender*)

9. Secondlie, The name of him, quha is adversare partie to him, quha is summoned (*that is, the name of the persewer*)

10. Thirddie, The debatable matter, quhairanent the summons is made.

11. Fourtlie, the day of compeirance, at the quhilk, he quha is summoned, sould compeir.

12. Fiftlie, the name of the place quhere the defender sould compeir.

13. The name of the Judge before quhom the defender sould compeir.

14. The summoner sould nocht execute anie summons, vpon ane Sunday, or anie other halie day; because vpon sic dayes, the voice of Judges, and officiars sould cease.

15. Gif anie of the clauses foresaids, happins to be pretermitted: the summons is vnlawfull.

6. And gif the summoner is over slaw, or faillies to do his office, or is favorable to either of the parties, the summons fall be null, and he fall be in the Kings mercie, and fall be condemned to pay

to pay the harmes, and skeath of the partie quha suffered the wrang, throw his default, conforme to the consideration of the courte, and the quantitie of his trespas.

Iac. 5. parl. 6. c. 75

Iac. 6. parl. 6. c.

76.

OF THE DEFENDER QVHA NEITHER
compeirs, nor sends ane excuse.

CHAP. 7.

THE defender being summoned to ane certaine day, compeirs or compeirs nocht, or sends ane messinger for him, or ane elsonzie, or neither the ane nor the other.

Glanv. lib. 1. c. 13

2. Gif he neither compeirs nor sends, the persewer ilk daie, to the quhilk the defender is summoned, fall compeir in courte before the Justiciar, and offer him readie to persew him. And swa remaine in courte be the space of three dayes (*in everie ane of the three courtes ane day*)

3. And at ilk day of compeirance, in ilk ane of the thrie courts the summons sould be verified.

4. And the defender be ane other brieve fall be summoned, vpon the space of fiftene dayes, at the least; to compeir, and answere baith vpon the principall pleie (*and action or cause*) touching the lands vnjustlie occupied be him: As also vpon his contumacie, that he being summoned of before, neither compeired, nor send ane to the courte for him, to make his excuse.

5. And sa the summons being executed against him, charge and him to compeir, to the thrie courtes, as said is; gif he remains contumax, and neither compeires, nor sendes ane excuse, tour for him, to the fourt summons, or fourt courte; the lands quhilks are in controversie, fall be saisid and taken (*sequestrat*) in the Kings hands, and swa fall remaine be the space of fiftene dayes.

Iac. 1. parl. 9. c.

117.

Iac. 4. parl. 3. c.

30.

Iac. 2. parl. 6. c.

30.

6. And gif the defender compeir within the said space of fiftene dayes he may recover the possession of the lands, he find and ane borghe (*or cautioner*) therefore (*to answere as law will*)

7. And gif he compeirs nocht, the sailing and possession of the lands sal be adjudged to the persewer, with al the frutes thereof, swa that the defender fall never be heard thereafter.

Read the latin text, and the annotation.

The first Buke,

OF ESSONZIES OR EXCVSATIONS.

CHAP. 8.

*Glanv. lib. 1. c. 10.
6. 11. c. 12.*

IT is lawfull to anie man, quha is summoned, to excuse and elsonzie him selfe sundrie wayes, therefore it is profitable to know divers kinds of Elsonzies.

2. Elsonzies some commes be reason of infirmitie, and some commes other wayes.

*Iac. 1. parl. 9. c.
114.
the law of Nor-
manie lib. 9. c. 10
Edward. 2. An.*

3. Of these quhilk commes be infirmitie, some commes be hailtie suddaine seiknes, and some commes of ane lang and auld seiknes, called *resseantisa* (*ane resident, heavie infirmitie, and sair seiknes*)

*12. c.
1 The defender
compeir and in
the fourt court.*

4. Swa gif the defender compeirs at the fourte court, and all his elsonzies made be him, anent the thrie courtes preceding, being found relevant: He fall proue and verifie all his elsonzies be his awin aith, and the aith of ane conjuratour sweirand with him: And thereafter the samin day, he fall answeire to the principall pley (*anent the lands*)

5. He fall proue his elsonzies, as said is, gif they be nocht already verified be certaine of the court send to trye, gif the defender be truelie seik: or with what kinde of seiknes he is vexed.

*2 He comperis
nocht.*

6. Gif the defender compeirs nocht to the fourte court, the lands, quhilk are controverted, fall be taken in the Kings hands, and he fall be summoned to compeir, and to answeire vpon fiftene dayes wairning, and to declare quhy he compeired nocht, to warant his elsonzier sent be him, to be harmeles and skeathles, as he fould doe of the law, and to heare justice ministrat againt him, be reason of his default, and nocht compeirance.

7. The pleges (*or cautioners*) found be the defender for his compeirance, in all the courtes: be reason of his contumacie, fall be in the Kings mercie, and in ane vnlaw of court, be the dome of the court.

*3 He neither co-
peiris, nor sendis*

8. Gif the defender compeirs nocht, nor sends nocht ane excusatour for him, to the court; the saising of the lands controverted sal be given and adjudged to the persever. Sa that the defender, fall never be heard vpo that pleie in anie time thereafter.

*Elsonzie be seek-
nes, granted to
the defender.*

9. Gif it happins anie man to be excused be seiknes in the samine towne quhere the court sits; be consideration of the court,

of the Majest.

9.

court, foure faithfull men fall be send to visie the seik man, and to try quhat kinde of seiknes he hes quhither it be ane langour or nocht. *Essonzie be sicknes, granted to the defender.*

10. And gif they quha war sent, after their returning, verifies in the court, the infirmitie to be ane langour (or ane vehement seiknes of bodie or of minde) the defender thereafter compeir and, fall nocht be compelled to sweare or make faith vpon his essonzie, grounded vpon his seiknes.

11. Gif the defender sends ane to the first court, to excuse him: and compeirs nocht at the second court, but commits ane default. Then baith the principall defender, and also he quha was sent be him, fall be in ane amerciament of the court; and the defender fall be summoned in the principall cause; and he quha was send, fall be likewise summoned to ansvere anent his default, or excuse; speciallie gif he did nocht finde ane pledge anent his excuse: For gif there was ane pledge found be him, he fall be summoned to ansvere for him. *The defender compeirs nocht at the second court.*

12. There is ane other kinde of excuse or essonzie, quhilk is necessare; that is, quhen ane is essonzied, because he is bezond the water of *Forth* or of *Spey*: And gif this essonzie is found lawful, fourtie dayes fall be granted to him quha is excused: Within the quhilk space of dayes, the day of the proponing of the essonzie, fall nocht be compted. *Essonzie bezond forth, or Spey.*

13. And gif he thereafter propone or vse anie other reasonable excuse, the same fall be admitted; and the common course of fiftene dayes fall be observed in giving of continuation. *Mar. parl. 6. c. 32*

14. Some other excuses may haue place in judgement, to excuse the defender, in the thrie courts, or in anie ane of them, for his nocht compeirance: Albeit the persewer compeir and offer him to persew: sick as inundation, or spate of water, or anie other suddaine chance or perill, quhilk may nocht be foresene. *2. Inundation of water.*

14. Ane may excuse himselte lawfullie, be reason of the Kings service: And quhen this essonzie is proponed and admitted in the court; the proces fall stay and continew, without anie certaine day. Except it be knawin or may be knawin to the court, quhere and in quhat place, he is, for quhom the essonzie is proponed. And then conforme to the distance of the place, in the quhilk he is, be reason of the Kings service, the proces fall be continued, as of before vntill it may be knawin that he is re- *3. Kings service.*

The first Buke,

is returned fra the Kings service.

15. And swa, they quha are continuallie in the Kings service, as his domestick servants, fall nocht haue the priviledge of this essonzie, and therefore concerning them, the forme of court and order of law fall be observed.

16. Bot concerning this essonzie, King DAVID commanded to vse ane distinction in this maner: He quha vses this essonzie, be reason of the Kings service, was first summoned anent the complaint, quhilk is proponed against him, before he palled away in the Kings service: Or, first he palled away in the service, and thereafter was summoned.

17. Gif he was first in service, and thereafter vses the essonzie be reason of the service: It is to be considered, quhither he hes the Kings speciall or generall command; swa that of necessitie he is in that service: Or gif he ingired himselte to that service vnderdesired.

18. Because gif he willinglie, nocht haue and the Kings command offered himselte to that service; to the hurt, and skeath of the persewer: It appeirs, that this kinde of Essonzie, sould nocht be profitable to him, and hurtfull to the other.

19. It is also to be distinguished, quhither he be palled bezond the sea, or to anie other place as said is, or nocht.

20. Gif he is bezond the sea; ane respit fall be given to him, or continuation of fourtie dayes; and na les nor fewer.

21. Within the quhilk fourtie dayes, gif he compeirs nocht, the course of the court, and the common order of law, fall be observed in all the proces.

22. And quhen he fall compeir in court personallie, or be ane to answeire for him: It is Statute be the King, that he quha was essonzied, fall haue the Kings brieve (*Letter*) for his warant, anent the foresaids essonzies: The quhilk Letter, he fall instantlie schaw, and produce the samine in the court.

23. Gif he be on this side of the sea, in the Kings service; it fall be in the Judges will and the courts, to assigne to him ane langer or shorter tearme, as the Judge and the court fall thinke expedient: swa that the common order of law be observed, that the persewer nor the defender receaue na wrang, anie maner of way.

24. Ane other kinde of elsonzie is sometime alledged in the court, that is, quhen the defender is in pilgrimage.

25. In this case ane distinction is to be vsed, quhither he quha vses this elsonzie, was summoned, before he tuke his journey, or nocht.

4. Pilgrimage.

26. Gif he first tuke his journey, and thereafter was summoned; it is to be considered, to quhat place he is passed: To *Jerusalem*, or to *S. James*, or to *Rome*.

27. Gif he passed to anie of the saids places; the pley and proces fall cease and stay, vntill his returning: except he maliciouslie absent himselfe.

28. Gif he was summoned before he tuke his journey, and thereafter is excused, be anie of the foresaids elsonzies; then at the least, fall be granted to him the space of ane zeir, and ane daie.

Mar. parl. 6. c.

29. Concerning other pilgrimages to other places: continuation fall be granted, according to the lenth and shortnes of the journey, as laid is, quhilk time fall be temperat, and assigned be the Judge and the court, as effects of the law.

30. There is ane other kinde of Elsonzie, quhen ane defender is excused, because he is absent at ane faire: quhilk being receaved, and admitted be the court; justice sal be done in all things, as is before said, anent the elsonzie of pilgrimage: swa that the course and ordor of law be keiped: according to the distances of the places and length, and shortnes of the journey.

5. Tublick fair.

31. It happins sometime that the persewer, after he hes found ane pledge (or cautioner to persew his action) alledges ane reasonable elsonzie, be reason of the infirmitie, or for some other reasonable cause, swa that he may nocht compeir to persew. It is demanded, gif his elsonzie fall be receaved or nocht.

Elsonzies compeir to the persewer.

33. For answeir of this question, King DAVID Statutes and ordines, that seing the law is made for the common-well and profite of baith the parties, that is, of the persewer, and of the defender: it were ane great iniquitie, gif the benefite and the remeid of the law, were granted to ane of the parties (to the defender) and denyed to the other partie (to the persewer)

33. And swa gif the court vnderstands the elsonzie proponed for the persewer, to be lawfull and to be verified in judgement be the maker thereof: speciallic be ane wadde or pledge, or be

The first Buke,

or be witnes, as is before said, of the essionzie of infirmitie: In this case, the persewer being swa excused, fall haue continuation to ane reasonable day; at the least for the space of fiftene dayes.

The persewer and defender absent. 34. And swa, he fall safe, and preserue his action and complaint: and may follow and persew the samine thereafter, quhen he pleases.

35. It happins sometime, that baith, the persewer and the defender is absent, and neither of them compeirs, nor sends ane excuse to the court; in the quhilk case, baith the ane and the other fall be adjudged in ane vnlaw of the court, for their default (*and contumacie*)

OF THE SIGHT OF THE LANDS pleadable.

CHAP. 9.

*Glanv. lib. 2. c. 1.
Edward. 1. An. 13
c. 47.*

BAith the parties being present in court, after that the persewer hes proponed his clame, anent the wrangous and vnjust detention of his lands, or tenement fra him; the defender may desire the ground, or land debatable, to be sighted.

2. But in this case, ane distinction is necessare, quhither the defender hes any other land in the towne, quhere the debatable land lyes, or nocht.

3. Gif he hes no other land, the sight of the land; quhilk is in controverlie, fall nocht be granted to him.

4. But gif he hes any other land; continuation fall be granted to him, for viseing of the land. And swa after the verification of his essionzies, he fall haue fiftene dayes, for viseing, and seing of the ground or land.

5. And quhen they are passed forth of court, to the visitation of the land: the defender may vse thrie lawfull essionzies of new, quhilks he vsed nocht before.

6. And command fall be given be the justitiar to the Schiref, that he send certaine friemen, of the schirefdome to visie the land; quha fall pas at command of the Schiref, and fall be witnesses anent the sight of the land.

7. After thrie lawfull essionzies, quhen the parties are passed from the court, to the sight of the land; the persewer fall be ware, that he giue distinctlie the sight of the samine, conforme to the meths and marches, conteined in the Kings breive. For gif he
giues

giues the sight thereof, otherwise then is conteined in the Kings brieve of richt; the brieve may be cassin, as nulle, and of nane a-vaill be the law; and also be the deid done be the persewer.

8. And gif he giue the sight of the ground richtlie, conforme to the forme of the brieve, be fall nocht be compelled to doe anie thing mair, that day: bot gif he please, and wil make ane foolish answer.

THE FORME OF CLAIME IN THE
brieve of richt.

CHAP. IO.

THe persewer and the defender, returnand fra the sight of the land, and baith compeirand in court; the persewer fall make and propone his clame and petition, in this maner. *Glauvil. lib. 1. c.*

2. J. sic ane man Sayes, and proponis against N. that my father, myguidhir, or my brother, or sister, or some other of my parentage or kinred, was in the possession, of sic ane land, be the space of certaine zieres and dayes; quhilk lyes in sic ane towne, be certaine meths and marches; betwixt the lands perteining to sic ane man, and the lands perteining to sic ane other man: quhilk land, I clame to perteine to me heritable; halden of OVR SOVERAINE LORD the King; or of sic ane other over Lord. Payand to him zierlie therefore sameikil, and to others sameikill. Quhilk lands with the pertinents perteins to me heritable, be discent or succession; be the death of sic ane man, my father, or of ane other of my blude, and consanguinitie, as my awin proper richt. The quhilks lands, with the pertinents, the said N. be force and vnjustlie halds fra me, against the law of the land; to my great shame and skeath of ten pounds money, mair or lesse. The quhilk gif the said N. denyes: J aske ane assise of the indwellers, of sic ane towne or place: And referres my clame to God and ane gude assise of neighbours. Provyding that na suspect persons, passe vpon the said assise. And mair over, that it fall be lesome, to me, to say mair, gif neid beis.

3. In this samine maner and forme, the clame sould be formed and made, anent all lands quhilks are pleaded, or asked be the Kings brieve of richt. But the cause of the titill (*be reason quhereof, the persewer may alledge the lands to perteine to him*) may be

The first Buke,

be challenged and altered (*for he may clame the lands be way of gift and donation as frielie givent o him*) or be buying and selling.

HOVV THE DEFENDER SALL ANSWERE to the persewer.

CHAP. II.

THe Kings brieve of richt being read in judgement; it is nocht necessarie to the defender, to say against the richt of the persewer at the first reading of the brieve, nor yet to make answer to the narration of the persewer: vntill that he, or his forespeaker haue said all; and all his clame and challenge be fullie proponed against the defender.

2. The defender, nor his forespeaker sould nocht be challenged be anie petition of the persewer; nor zit sould be amerciate be the Judge; gif he defends his richt against the injurie, violence, and forcible detention of the lands, alledged be the persewer, before that he passe forth of the court, to seik counsell (*of his friends*) anent his defences, to be proponed be him.

3. Likewise in the brieve of mortancestrie, and in the brieve of recognition (*of inquest*) the quhilk is like to the other; and of the samine nature: And in the brieve of Novell dissaisin (*ejection and spoilzie*) The defender nor his forespeaker, hes na necessitie to defend himsele, or speake anie thing against the wrangous detention of the lands alledged against him, be the persewer: Bot before anie answer made be him, he sould heare the Kings brieves reade to him, and thereafter make answer for himsele, in the best forme he may; baith against the Kings brieves, and also against the clame of the persewer.

4. He sould aske and haue licence, to passe forth of the court to seik counsell of his friends; and that being done, he sould enter in court againe, and propone his defences against the wrang, violence, and forcible detention of the lands controverted, alledged contrare him.

5. And siva the defender fall begin, first to propone his exceptions, gif he hes anie relevant, against the Kings brieve, to cast and annull the samine.

6. Gif he first propone ane exception against the persewers clame, and thereafter against the brieve; in that case he affirms the

the brieve to be valide, and vncassable. And gif thereafter he wald object against the said brieve, he sould nocht be heard to do the samine.

Q. WHEN THE MATER SOULD PASSE

to ane Assise.

CHAP. 12.

GIf the defender hes na relevant exception against the Kings brieve, nor contrare the clame of the persewer: then it fall be proceded to ane gude assise, anent the clame of the persewer, and the answer of the defender. *Glanvil. lib. 2. c. 13. Vid. fac. 6. parl. 11. c. 88.*

2. Ilk man may put himselfe to ane assise, anent the petition of service, or clame of lands, tenements, or annuel rents; nocht onelie against ane stranger, but also contrare his awin trew over-Lord.

3. That it may be knawin be ane assise, quhilk of them hes maist richt, to the lands acclaimed; that is, quhither the over-Lord hes best richt to reteine the lands in his awin hands as his propertie; or the defender to hald them of him in chiefe (*as tenandrie*) —

4. The samine day twelue loyall men neighbours, or of the court fall be chosen; quha fall sweare the great eath in presence of the parties, that they fall declare quhilk of them hes best richt in their petition. *Glanvil. lib. 1. c. 14. lib. 13. c. 7.*

5. All the persons suspect to either of the parties fall be repelled, and incontinent cognition, or tryal fall be taken be the assise.

6. The absence of either of the parties, fall nocht stay the assise to proceid: seing they did consent that the mater sould passe to the knowlege of ane assise.

7. The assise proceidand, and going fordward; either of the parties may tine and be hurt, be reason of his absence and defalte. Bot na man may win, or be in ane better estate, in respect of his absence.

8. The assise passand fordward, to take inquisition of the mater; either the richt of the parties, is well knawin, to the assisours; or some of them hes knowlege thereof, and some are ignorant, or all ignorant.

9. Gif nane of them knawes the trueth, and in the court testifies the samine be their great eath; other persons fall be chosen, in their place, vntill sic men be chosen quha knawes the veritie.

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10. Bot gif some of them knawes the trueth, and some knawes nocht; they quha are ignorant being repelled, others fall be admitted be the court, vntill twelue men be found, all aggreand together.

11. Als wa gif some of them sayes for ane partie, and some for ane other; others fall be admitted, vntill twelue at the least be found of ane minde and concord; for either of the parties.

*Iac. 1. par. 13. c.
138.*

12. All the assisours fall sweare, that in that mater or debate vpon the decision quhere they are chosen; they fall nocht laine nor conceale the trueth wittinglie, nor na falsset say.

13. It is requisid of them, quha sweares to the effect they may haue knowlege of the mater, quhilk is in question; that they knaw the veritie, be sight, or be hearing be themselues, or be narration of their fathers, or be sick sure takens and arguments, to the quhilk they will giue or may giue als great faith, as to their awin proper (*doings or sayings*)

THE SENTENCE OR DOME.



CHAP. 13.

*Glanvil. lib. 2.
c. 16. c. 18.*

QWhen the twelue loyall men compeirs, and passes vpon the assises being certaine of the trueth: they fall proceid and try quhilk of the parties, the persewer or the defender, hes best right to the lands clamed.

2. And then the Judge be consideration of the court, fall giue for dome; that the partie conuict, quhither the persewer or the defender, fall be attolzierd fra the clame of the other; or fall be condemned perpetuallie: swa that he quha is condemned, fall never be heard thereanent, in court or judgement.

3. Because it is to be vnderstand, that actions and pleyes, being lawfullie decyded and ended, be the Kings great assise; thereafter sould never be walkned againe for anie occasion.

4. Gif the dome is pronounced in the court, in favours of the persewer; the partie aduersare, fall tine the land acclamed; and the samine fall be restored to the persewer, with the frutes commodities, easments, and pertinents, quhilks fall be found in that samine land, the time of the sailing (*quhilk the Schirefe fall giue to the persewer conforme to the verdict, and deliverance of the Assise*)

5. Be-

5. Because the frutes extant, and dependand vpon the ground, are ane part of the ground and land.

THE PAIN OF THEM QUHA COMMITS
wilfull error vpon ane assise.

CHAP. 14.

ANcertaine paine is Statute, and ordeined be the King in his lawes; anent them quha passis vpon the Assise of the breive of richt, or of anie other breive, & are convict and found to be perjured and mensworne. *Iac. 3. parl. 6. c. 47. parl. 8. c. 63. Iac. 4. parl. 3. c. 35. parl. 5. c. 57. Henr. 8. An. 28. 23. c. 3. Glanvil. lib. 2. c. 19.*

2. For gif the assisors fall happin to be convict as mensworne in the court, be ane Taynt; that is, be probation of twentie foure loyall men, and sworne to try gif the assise of twelue men, be mensworne or nocht. Or gif the saids twelue assisors confes their perjurie, or fault in judgement.

3. In that case, they fall tine and forfalt all their cattell, and o-ther moveable gudes, to be inbroucht to the Kings vse: saife and to them, their lands, tenements (*and heritage*)

4. Mairover, they fall be prisoned, and remaine in prison be the space of ane zeir and ane day, at the least.

5. Alsua in all time thereafter, they fall tine the benefite of the law, and of the land; and fall incurre the paine of infamie; and throw their awin deserving, fall never be heard, as witnes in probation or in acquittance (*or purgation*) nor to make ane aith before ane Judge, nor in anie other kinde of matter.

6. The quhilk paine is therefore ordeined, that the like punishment and paine, may terrifie all men to make vnlesome and false aiths.

OF THE DEFENDER ALLEDGE AND
ane warant.

CHAP. 15.

THe order of mute or pley in court, is alreadie exponed, quhere the presence of the defender onelie, and of na other man, is necessare to defend and make answer in the pley. *Glanvil. lib. 3. c. 11. Quon. Attach. c. 55.*

2. Now followes the forme of proces quhere the presence of ane other man, then the defender is required: that is, quhen the defender sayes in judgement, that the thing clamed fra him, is

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nocht his awin proper geir. And alledges that he possesse the same as borrowed and lent, or given to him in keeping, or set to him for hire or for certaine rent, or given to him in wad, or sauld to him, or be anie other maner of possession (*or titill*)

3. Or gif he affirms the thing acclaimed, to be his awin in propertie, and that he hes ane warant thereof.

4. Gif the defender alledges in court, that the thing acclaimed pertains nocht to him in propertie, but to ane other man; he to quhom it is alledged to perteine fall be summoned, gif he be present in the same towne, quhere the thing is claimed.

5. And the defender in quhais possession, the thing acclaimed was found: fall finde borgh to enter in court, the thing quhilk was challenged and claimed.

6. And gif he finds nocht ane borgh, his bodie fall be attached, together with the thing acclaimed, vntill the day at the quhilk he sould compeir, to quhom the thing acclaimed was alledged to

*The warant com-
peiris.*

perteine.
7. Quhen the day is come, gif he compeirs, quha was called for warant; or affirms or grants, the thing quhilk is in plie, to be his awin; the principall defender in quhais possession the thing pleadable, was first attached; fall paise quite and be frie.

8. And the other quha was called for warandice, fall answeire preceisslie thereanent. And swa of new the plie fall begin betwix the persewer, and the warant.

9. Quhen the defender alledges in the court anie man, for his warant; he fall finde ane borgh, for to compeir againe in court, and ane reasonable day fall be assigned to him, for calling of his warant.

10. And he may vse thrie essonzies, be reason of his awin proper persone; And siclike his warant, quhen he compeirs, may alledge othet thrie.

11. Last, gif he quha was called for warant compeirs in court, all things concerning that plie fall be pleaded, and deduced against him in his proper person.

12. And quhen it is certaine (*be decret*) that he quha was called as warant, sould warant to the principall defender the thing quhilk is claimed: In that case, the defender sould nocht tene or amit the thing debateable: For albeit the thing be evicted be the persewer as his owne proper gudes, fra the warant; Nevertheless,

les, the warant fall be oblised to the defender, for ane reasonable excambion or exchange, of als meikil, gif he hes quherewith he may doe the samine. *The warant compeirs nocht. Glamvil. lib. 3.c.*

13. It happins some time that he quha is called as warant of the thing acclaimed, neither will nor regards to compeir, to warant the samine, nor to shaw ane reasonable cause, quhy he sould nocht doe the samine.

14. Therefore at the desire of the defender, quha called him for his warant, conforme to the law, he fall be distrinziet, and compelled to compeir to doe the samine; gif he dwels within the samine jurisdiction with him, quha called him for his warant.

THE VVARANT OF A THING STOLLEN thifteouslie.

CHAP. 16.

IT is Statute be King DAVID anent cattell, or anie other thing thifteouslie stollen, that in quhatsoever province the thing challenged, fall be found, that it fall be broucht to the place quhere he ordeined sick cattell to be broucht. *Lib. 3.c. 13. Stat. With. c. 1. Stat. Alex. c. 12. Vid. Infra, c. 20.*

2. And gif he quha is accused of the cattell, or anie other thing thifteouslie stollen or rest; alledges anie man for his warant dwelling betwixt *Forth* and *Drumalbane*: he quha is challenged, fall haue fiftene dayes to produce his warant before the Schiref; quhilk warant dwels within the saids bounds.

3. And gif ane dwels bezond thir places or bounds, in *Murray*, *Rosß*, *Caithnes*, *Argyle*, or in *Kintyre*, he fall haue all the fiftene dayes, and also ane moneth to bring and produce all his warants to the place, quhere he quha was challenged of the cattell, or other thing stollen or rest, fall be broucht with the cattell.

4. And gif he quha is challenged, passes and gois for his warant dwelland in *Murray*, or in *Rosß*, or in anie other of the steids or places pertaining to *Murray*, and can nocht finde or apprehend his warant; he fall passe to the Schiref of *Innernes*; and the Schiref fall send with him, the Kings servants, quha fall see that he be righteously treated and handled, conforme to the law of the land.

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OF THE MASTER QUHA COMPELLIS nocht his man to compeir.

CHAP. 17.

*Vid. Iac. 5. parl. 1.
c. 2. parl. 3. c. 6.
Iac. 6. parl. 11. c.
103. c. 107.*

IT may be demanded quhat fall be done, gif he quha is challenged, may nocht haue his warant; or gif his warant refuses to follow him, or to come to the court.

1. To this it is answered, that the Kings officers fall come to the master of that warant, and require him to compel his man to come to the court with him, quha is challenged; and to be his warant.

3. Gif the master of the warant superseids or delays to obey the said requisition, he fall giue to the King ane hundreth kye, gif he hes sa many cattell; otherwise he fall giue the valour thereof in gudes and geir.

4. Gif he hes nocht sa meikill in gudes and geir, his bodie fall be in the Kings will.

5. And the warant fall pay the thrie fald, or triple of the cattell challenged (*be reason of his contempt and disobedience*)

** That is, to the
partes of this
Realme be north
the water of
Perth.*

6. Gif he quha is challenged, alledges ane warant dwelland in Argyle, quhilk pertains to Scotland, he fall passe to the Earle of Athole, or to the Abbat of Glendocheroch, and they fall send their men with him, quha fall be witnesses to this Assise (*and ordinance*)

7. Gif ane man dwelland in Kintire, or Cowell, is called as ane warant; the Earle of Menteeth fall send his men with him,

*b In the parts of
this Realme up-
on the South side
of the water of
Forth.*

8. All they quha bezond the water of Forth dwell in Lowthian, in Galloway, or in other places, fall answer to their challengers of Scotland, within the space of sax weiks at the bridge of Striviling, conforme to the said ordinance.

9. Gif he quha is challenged, can nocht finde his warant at the termes statute, and assigned thereto: he fall be compelled be the law, to restore the cattell challenged, to the challenger; vn- till he obtaine justice and reason against his warant.

10. And quhen the pley is ended; the challenger (*in quha is
favour the decreit is given*) fall receaue his awin cattell; and the warant fall giue to him, quha is challenged, the thrie- fald, or the triple thereof.

ANE

of the Majest.

15

ANE BORGH IN BYING AND SELLING, and of him quha releaues nocht his borgh.

CHAP. 18.

IT is Statute be King DAVID, that na man fall buy anie thing, except he quha selles the samine finde to the buyer ane lawfull borgh (*quhilk commonlie is called ane borgh of haimebald*) *Iac. 1. parl. 9. c. 117.*

2. Gif the borgh cannot finde or apprehend him (*the seller*) for quhom he is borgh, quhen neid and necessitie requyres (*that is, quhen the thing bocht and sauld, is challenged fra the buyer, be ane third persone*) Or gif the borgh found be the seller, does nocht that quhilk he sould doe: the borgh fall giue to the challenger the triple of the thing quhilk is challenged. And fall also giue to the King for his forfait and trespassse, aucht kye.

3. And the seller of the thing challenged, quha suffered his borgh, found be him to incurre sic skeath; and compeired nocht to releaue his borgh, and keip him skeathles; fra that day he fall be out-lawed forth of all the Realme, quhere ever he fall be found and apprehended.

OF ANE PRIEST CALLED FOR warandice.

CHAP. 19.

GIf anie thing thifteouslie stollen, is challenged be anie man; *Vid. Iac. 6. parl. 116. c. 110.* and he quha is challenged, alledges ane Priest for his warant; and the Priest will willinglie warant the samine; he sould nocht be admitted to doe the samine.

2. Except he quha is challenged, proue be the eath of thrie loyall men, that he receaued fra the Priest, the thing quhilk is challenged. *The defender.*

3. Gif the Priest sayes, that the thing challenged, was bred and vpbrought in his house, he fall nocht be heard to alledge the samine; but gif he proue the samine be the testimonie of thrie loyall men.

4. Swa that the Lord of the land, quhere the thrie witnesses dwellles, fall giue testimonie of the fidelitie of the saids thrie witnesses.

5. Gif the Priest affirms that the thing challenged, was offered

fered to him (*as almes*) he quha offered the samine, or his aire, gif he aniches, fall receaue back againe that thing, and fall answer for it; and giue to the Priest the price of that thing quhilk was offered.

6. Gif the Priest alledges, that he receaved that ilk thing, as a parte of his tiends; he fall verifie the samine be the testimoniall of leill men, quha knew the samine to be of veritie.

7. Gif he sayes that he receaved that ilk thing, for ane mortuarie; he fall proue the samine be the witnessing of honest men of the parochie, quha saw the baners (*or the croce*) borne before the corps of the defunct.

8. Ane Priest, sould neither sell nor buy anie thing, except he haue honest and lawfull pledges or borghs.

9. Mairouer, ane Priest sould not receaue anie thing fra ane other man, but the testimonie of honest and faithfull men.

AT WHAT PLACE WARRANTS SOULD

compeir.

CHAP. 20.

These are the places, to the quhilk warants sould come and warant sic things as are challenged.

2. In Gowrie, at Scone.

3. In Starmonth, at Cluny.

4. In Athoill, at Rait.

5. In Fyfe, at Dalgensch.

6. In Strathern, at Perth.

7. In Anguse, at Forfair.

8. In Mar, and Buchane, at Aberdene.

9. In Rosse, and Murray, at Innernes.

10. These are the chief and principall places of the countries (*Schirefdomes*) of Scotland, ^a throw all the Realme.

11. And this samine maner fall be observed, in the courts of them quha hes their particulare courts vnder the King: For the warants sould come to the chiefe places, quhere the courts are halden, to answer as law will.

^a Of that parte of the Realme, upon the North syde of the water of Forth.

ESSON-

ESSONZIES MADE BE ANE

warant.

CHAP. 21.

AT the day assigned to the warant, for compeirance; he may essonzie himselte, or nocht essonzie.

2. Gif he neither compeirs nor sends ane essonzie; the power and benefite of the law fall be denied to him, quhilk is granted to others: for it is, ane vnsemelie thing, and ane iniquitie, (*that he being summoned, compeirs nocht be himselte, nor be ane other*)

3. Bot gif the warant causes himselte to be lawfullie essonzied, at the thrie courts, conforme to the law of the land

4. Then he sould compeir at the fourt court, or send ane fore-speaker for him.

5. Gif at the fourt court, he neither compeirs personallie, nor be his procuratour; proces fall be granted generallie, as is before said, of the defender nocht compeirand at the fourt court.

6. And quhen the warant be judgement of the court, be reason of his awin defalt, or contumacie fall happin to tine the land, or other thing clamed; he fall be oblISHED to him, for quhom he is warant, for ane reasonable exchange or excambion, that is to say, for als meikill, as he for quhom he is warant, hes tint and admitted be decret of the court, as said is. ^{Supr. c. 8.}

OF HIM QUHA NEGLECTIS TO CALL

his warant.

CHAP. 22.

IT happins some times, that the defender possessor of the land, or of the other thing challenged, hes ane warant; and nevertheles he neglects to call him to court, for his warant: and sifa answers and defends onelie in his awin name, against the persewer. ^{Glanvill. lib. 3. c.}

2. Quhilk gif he does, and tines the land; he fall never thereafter in anie time recover the samine against the warant.

3. It is to be sifa vnderstand of all other things debateable: quhereof

The first Buke,

quhereof the warant is nocht called in lawfull time.

IT IS LESOME TO CALL THE FOVRT warant.

CHAP. 23.

Gif ane warant calles ane other warant, how many is it le-
some to call?

It is Statute be King DAVID, that recourse may be had to the
fourte warant; quha fall be bound to answeire preceisslie, and
peremtorlie. As hereafter fall be exponed in the buke anent
decrets.

ANENT THE CALLING OF OVER-LORDS or superiors.

CHAP. 24.

*Like as the defen-
der may call his
warant, as said
is, so he may call
his ouerlord-
quhen question
is anent the su-
perioritie of
lawes.*

MAirover ane pley may some time be delayed, and conti-
nued, be reason of the absence of the over-lords, that is,
quhen the defender alledges, that he halds his land, quhilk is
challenged, in fee of ane over-lord in chief; and the persouer af-
firms that he halds the samine lands in fee of ane other over-
lord, in chief.

2. In this case, baith the said alledged over-lords sould be
summoned: that in their presence, the pley may be heard and
ended; and that neither of them, be reason of their absence, suf-
fer anie skeath.

THE OVER-LORD OF THE DEFENDER.

CHAP. 25.

BAith the over-lords summoned to ane certaine day; at the
samine day, may vse and alledge essonzie lawfullie, as is be-
fore daclared:

2. Gif the over-lord of the defender is essonzied at thrie
courts; nevertheles he sould compeir at the fourt court, or else
send ane forespeaker for him.

3. Because gif he neither commes, nor sends; the tenent, or
the defender fall answeire and take vpon him the defence of the
cause.

4. And

of the Majest.

17.

4. And gif he win the cause be just defences, he fall hald
and possesse the samine land, and fall doe service therefore to the
King.

5. Be reason the over-lord fall tine the service awand to him
him forth of that land, in respect of his contumacie, ay and
quhill he compeir, and doethereanent, as he sould doe of the
law.

6. Gif baith the over-lords happins to compeir, the over-
lord of the defender, either fall warand the land clamed, to be of
his fie and heritage, or he fall denie.

7. Gif he warands, it is in his awin will to take the defence
of the pley in his awin person: Or to commit the samine to the
defender.

8. And gif they baith win the cause, ilke ane of them fall be
in their awin estate, as of before (*the ane fall be over-lord, and the
other fall be vassall*)

9. And gif they tine the pley, the over-lord fall tine the ser-
vice of that ilk land: and the defender fall lose and forfault the
land, without anie recoverie be judgement.

10. Gif the over-lord of the defender being present in court,
failzie or refuses the warandice; the pley may be moved be-
twixt them, that is, the over-lord and the defender: Speciallie,
gif the defender alledges, that the over-lord does him wrang, in
refusing to warand him the land. Because he did special service to
the over-lord, for the said land, that is, als mekill as the defender,
or his predicessors did of before, or was wont to doe to the said o-
verlord of the said land.

11. And for verification heirof, he fall haue conforme to the
consideration of the court, sufficient probation; and fall proue
the samine:

12. Be writ, or be the court (*members of the court*) or be ane
Assise of the countrie; and be the Kings brieue raised be him, a-
gainst his over-lord, as his warant.

13. And the foresaid over-lord being convict, fall be ob-
lissed vnto him in ane competent excambion, and exchange of
als mekill as he hestint in judgement, be reason of his over-
lords defalt.

D

THE

Concerning the over-lord of the persewer, the foresaid distinction should be kept and observed.

2. For gif he compeirs in court, and alledges the land claimed to pertain to him in heritage, and offers him to war and the persewers clame; it is in his will gif he please to stand at, and allow the persewers sute.

3. Or he may himselfe persew the pley against the defender, reservand baith their richts, that is, the over-lords and the persewers, gif they happin to win the pley.

4. And gif they tine the pley, they baith fall be losers (*for the one fall tine the superioritie, and the other fall lose the propertie*)

5. Gif the over-lord of the persewer compeirs in judgement, and refuses to war and his clame; the persewer quha called him for his warant, and hes not proven the samin against him: fall remaine in the Kings mercie, be reason of his wrangous persute.

PLEYES ARE ENDED BE ARBITRIE,
the paine of him quha contraveins. CHAP. 27.

Glanvil. Lib. 8. c.
1.

IT happins fundrie times, that pleyes moved in the Kings court, are decided and ended be amicable composition, or finall concord, with consent and agreement of the parties, or be arbitrie.

2. Finall concord is swa called, because it puts ane end to the pley: swa that nane of the pleaders may gainsay, or contraveine the samine (*be reason of their consent*)

3. For gif ane of the parties will nocht fulfill, nor doe that quhilk is agreed; and the other complaine to the King there anent; command fall be given be the Kings letter, to the Judge, or to the Schiref, that he quha keeps nocht, that quhilk is agreed, fall be compelled to finde sure and sufficient pledges; and that he fall be summoned before him to answer to the persewer, quhy he did nocht keip and fulfill the finall concord made with mutual consent.

4. Gif baith the parties present in the court, affirms and acknowledges the finall concord put in writ betwixt them; or gif the samine be verified, to be trew, be the testimonie of the Schiref,

ref, or of the Kings Judge before quhom the said concord was made, the partie quha hes broken, or contravened the samine fall remaine in the Kings mercie.

5. And fall be attached to finde pledges, ay and quhill he make sufficient securitie, to keip and obserue the said concord in all points, according to the covenant and paction, gif the samine be possibill and reasonabill.

6. And at the consideration of the court, he fall restore to his partie adversare, all skaiths sustained be him, throw the breaking of the paction and aggreement.

7. And gif the aggreance, or convention is made anent ane pley of land he quha is convict or confessis, that he hes broken the aggreance, or nocht to haue kept the samine, quhat ever he be, fall be condemned, as is before said. And he fall be in the Kings mercie.

OF P ACTIONS.

CHAP. 28.

P ACTION (*covenant*) is the consent of twa persons, or moe, anent the giving (*doing*) and receaving of ane thing.

2. Ane paction is nocht, quhen ane consent is given, anent ane thing quhilk is trew, or quhilk is false; for gif twa or moe persons consent to this false proposition, *VWilliam* is ane ox; or to this true proposition, *VWilliam* is ane man; sic ane consent is nocht ane paction, nor anie way obligatour; for neither of the parties is oblissed to other, be sic ane consent.

3. And quhere I said, that paction is the consent of twa or moe persons; thereby paction is different, fra pollicitation; quhilk is ane hecht or promise of ane persone onely.

4. Paction is driven, and hes the name fra *Pax* and *Actus* (*that is from ane action or deid of peace*) for they quha makes pactions, haue and divers opinions, and contrarious motions of minds (*and hearts*) after divers and many strifes and contentions; peaceable convenes and aggries in ane constant will, and vni-forme sentence.

5. Or paction is driven fra percussio, or striking together of hands. For in auld times, in contracting of obligations, the vse was to shaik hands, in signe and taken, that faith & trueth should be kept be the makers, of the paction.

The first Buke,

PACTIONS REALL AND PERSONALL.

CHAP. 29.

PACTIONS are of twa kinds, some are Reall, and others are personall.

2. Reall, are quhen I make ane paction, nocht to seik or to craue sic ane thing.

3. Personall are, quhen I make ane paction, nocht to seik ane the thing fra sic ane man; as I fall nocht craue it fra *Titius*.

4. Be this personall paction, I will never be heard to aske the thing fra him, to quhom the paction is made, nor fra his heires.

5. Quhither pactions are reall, or personal, it may be vnderstand nocht onely be the wordes of the paction, but also be the minde of them quha maks the paction.

6. Because some time ane person is mentioned in the paction, nocht to make that paction personal; but that the person may be knawin, with quhom the paction is made.

PACTIONS PROFITABILL AND VN- profitabill. CHAP. 30.

Item, there is twa kinds of pactions, some are profitabill (*lawfull*) and others are vnprofitabill (*unlawfull*)

2. Profitabill are they, quhilks are not vnprofitabill.

Quon. Attach. c.
21.

3. Swa pactions are vnprofitabill, be reason of the persons, makers thereof. As ane paction made with ane woode or furious man: quha of the law, can giue na consent to anie paction or deid. Quhilk is to be vnderstand of him quha is continually woode and furious.

4. Because it is otherwise to be said of him, quha hes manifest intermission, or staying of the woodnes and furie: as of him, quha is lunatick.

5. *Item*, pactions are vnprofitabill, made with ane pupill, and minor; quha is nocht capable of deceite or gyle. And speciallie, quhen ane pupill obliſſes himselfe to ane other man. But otherwise it is to be said, quhen ane pupill takes ane other man, obliſſed to him. Because ane pupill may nocht be bound to ane other man; except, that be done with consent of his tutor.

6. *Item*, pactions are vnprofitable, made with the married wife

wife, of anie man, because the wife may make na paction, nor contract, without the authoritie or consent of her husband.

7. *Item*, the paction hes na strenth, gif the thing quhereanent the paction is made, can nocht be found exstant naturallie in the world. As gif ane makes ane paction, anent ane slaue, or bondman, to be given to him, quhom he belived to be livand: Or anent *Hippocentaurus*, that is, ane Monster, quhilk is halfe horse, and halfe oxe; quhilk be nature can nocht be. All sic stipulations are vnprofitabill.

8. *Item*, pactions are vnlesome, quhilks are made with the hurt and lolle of the saull.

9. All pactions sall haue na strenth, nor effect, anent sic things as are forbiddin; albeit they be made with ane aith.

10. *Item*, ane paction quhilk is filthie, or of ane filthie thing, or quhilk is vnpossibill, be the law, and be the awin nature, is na waies obligatour.

TO WHAT PERSONS P ACTIONS ARE
extended. CHAP. 31.

THe strenth and force of pactions, is extended nocht onelie to the makers thereof, but also to other persons. As ane paction made be the predicesour, obllies the successour. And the fathers paction, binds the sonne.

2. We decerne and ordeins all pactions to be keiped, quhilks are nocht the detriment, or hurt of the saull.

3. Paction anent ocker, or vsurie sould nocht be keiped: but the aith interponed thereto sould be keiped.

4. In all things lesome and lawfull, pactions sould be keiped and observed.

Exod.c.22.25.

Levitic.c.25.37

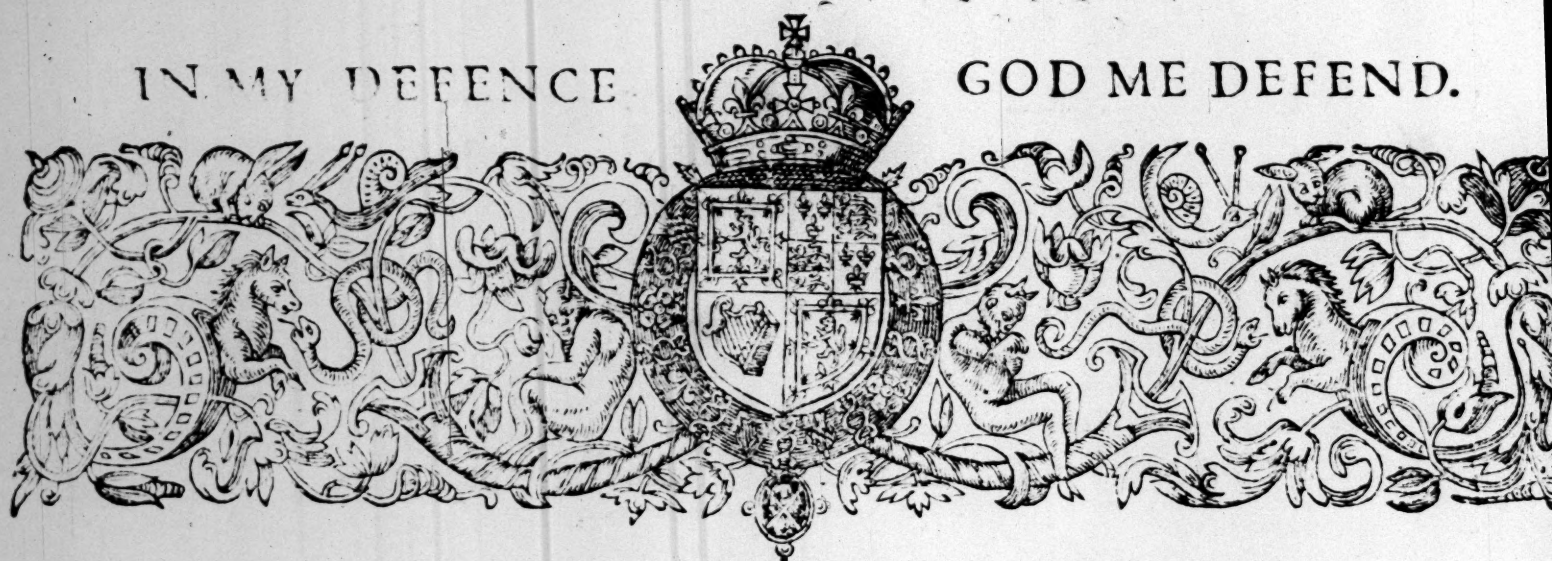
Deuter.c.23.19.

Psalms.15.5.



IN MY DEFENCE

GOD ME DEFEND.



THE SECOND BVKE, OF IVDGEMENT,

OR
FORME OF PROCESSES
DEDVCD BEFORE
ane ordinarie Judge.

OF ARBITOURS.

CHAP. I.



NOW WE PROCEED TO
determine and declare in ane part,
Judgement (*and ordinar forme of
proceses before ane Judge*)

2. And because Arbitrie is reduced, and hes ane great similitude with Judgement (*and ordinar proceses be reason the ane is voluntarie Judgement; and the other is necessarie*) therefore first, we sall define and

shaw, quhat is Arbitrie.

3. In how many persons, compromittes may be made.
4. Quha may be Arbitours.
5. Quha are forbiddin to be Arbitours.

6. Anent

6. Anent quhat maters, Arbitrie, or compromittis may be made.
7. Quhat is the effect of ane decreit arbitrall.
8. In quhat Points Arbitrie and Judgement, are different.
9. In quhat maner Arbitrie sould be ended.

QVHAT IS ARBITRIE.

CHAP. 2.

ARbitrie is ane lawfull deid of persons contendand (*and strivand*) as it were in judgement, anent ane civill question, and complaint.

2. The Judge sould try the trueth (*and veritie of the cause*).
3. The perlewer sould amplifie and strengthen his awin cause and persure.
4. The defender sould extenuate, and be defences and exceptions, sould annull the clame and querrell of his partie adversar.

QVHA MAY BE ARBITOVRS.

CHAP. 3.

All these may be Arbitours, quha are nocht forbiddin be the Law.

2. As ane free man, and he quha is master of his awin house or his heire.
3. Als wa, he quha sould be ane Arbitour, sould be of gude brute and fame.

QVHA ARE FORBIDDIN TO BE

Arbitours. CHAP. 4.

ANe slaue or bondman, may nocht be ane Arbitour; albeit the parties consent in him.

2. Wemen may nocht judge in Arbitrie.
3. He quha is furious, or deafe, or dumbe, may not be ane Arbitour.
4. He quha is within the age of twentie ane zeir, is forbiddin to be ane Arbitour.
5. Ane Judge haueand ane ordinar jurisdiction, may nocht be ane Arbitour. For the law sayes, ane Judge is defended and forbiddin to be ane Arbitour, or to accept ane compromit; of that ilk mater, quhercof he is judge.

6. For

The second Buke,

6. For thrie reasons and caussis ane Judge may nocht be ane arbitour.

7. The first; Gif the Judge were arbitour, and would nocht pronounce his decreit (*arbitrall*) na perlon may compell him to pronounce; because ane arbitour (*refusand to pronounce his decreit*) sould be compelled be ane Judge, to pronounce.

8. The second reason; Gif it happin the sentence of the Arbitour, to be querelled or impugned; the Judge being Arbitour, will curagiously defend his awin sentence and decreit.

9. The third reason; ane Judge being nominat and chosen, ane Arbitour, may nocht compell himselfe to accept the compromit and arbitrie, vpon himselfe.

10. Ane ordinar Judge may be ane Arbitrator, or amicable compositor; for he may (*be consent of parties, without ane ordinar processe of Law*) be amicable composition (*summarlie*) decide and dissolue sic debaits as are in question betwix parties.

IN HOW MANY ARBITERS ANE compromit sould be made. CHAP. 5.

ANe compromit sould be made in ane odde and vnequall number of persons: With the quhilk number, God is well pleased. As in ane man, or in thrie men, and swa furth.

*Vid. fac. 1. parl. 6.
c. 87.
Iac. 6. parl. 11. c.
42.*

2. For gif it happins that all the thrie arbiters agree nocht in that pronounciation of their sentence; the decreit of the other twa sould be valed and lawfull.

3. But it is demanded quhiher the arbitrie is gude, qnhen the parties compromittis in twa arbiters.

4. It appeirs, that it is nocht lawfull; for gif they baith dissent or discorde; the mater or controversie will not take effect.

5. But truly the vse and consuetude is this, to make compromit in twa arbiters: and gif they discorde, gif they were chosen in judgement; the Judge may compell them twa, to choise and elect ane third man, that be his decreit, agree and with them (*or anie ane of them*) ane sure and lawfull sentence, may be pronounced.

IN WHAT CAUSSIS MAY ANE COM- promit be made, or nocht made. CHAP. 6.

Compromit may be made lawfullie, anent caussis pecuniall, temporall, and spirituall.

2. But

of the Majest.

21.

2. Bot in caussis of matrimonie, or in ane cause concerning the estate or libertie of ane man, or in criminall caussis be the law, it is nocht lesome, to make ane compromit in arbitouris: But it is permitted to compromit in Arbitrators, and amicabill compositors.

3. Ane compromit receaves na execution, nor obedience: Except ane pane be adjoined and contened in it, quhereby (*the parties fall keip and fulfill the samine, throw feare and dreadour of the pane*)

4. Be paction and consent of parties, ane decreit may be given and pronounced, conforme to ane compromit; albeit ane of the parties is absent, and the other present.

IN QVHAT PLACE OR AT QVAT *time ane decreit arbitrall sould be given.*

CHAP. 7.

Likewise, be paction and consent of parties, it may be conveyned and agreed, that the decreit of the Arbiters, fall be pronounced in ane certaine speciall place.

2. Otherwise, gif there be na speciall place appointed be the parties, the decreit sould be pronounced in the samine place, quhere the compromit was made.

3. Als wa be consent of the parties, the Arbiters may decrite as they please; swa they doe the samine conforme to the lawes of the Realme.

5. The Arbiters may nocht pronounce their decreit, vpon ane halie day,

5. Except in thrie cases; that is, gif they be compelled be the King, or his Judge, or be consent of the parties; or gif there be ane certaine day appointed for pronounciation of the decreit, and the samine will expire and rin out.

THE EFFECT OF ANE DECREIT AR- *bitrall.*

CHAP. 8.

THE effect of ane decreit given be Arbiters is, that it fall be obeyed, quhither it be just or nocht: swa that it be nocht contrare to the lawes of the Realme; and without all deceit or gile committed be the arbiters.

2. Ane

The second Buke,

2. Ane decreit arbitrall sould be strenthened and confirmed with ane paine. Otherwise gif it containe na paine, but onely corroborat be ane aith or faith of the parties, and arbiters, conforme to the Canon law, it is lawfull: but be the law of this Realme, it is vnlawfull..

THE DIFFERENCE BETVVIXT JUDGE- ment and Arbitrie. CHAP. 9.

THe decreit of ane ordinarie Judge, and ane decreit arbitrall are different.

2. Because ane Judge may punish him quha is contumax, and obeyes nocht his decreit: But ane Arbitrator may nocht doe the like. For sic jurisdiction is competent onely to ordinarie Judges.

3. Gif twa or thrie Arbiters be chosen be the parties, nane of them may giue procelle or pronounce decreit, without the rest of his companions or collegs.

4. But gif there be foure Judges, ane of them may preceid and hald court without the remanent of his collegs.

HOVV ARITRIE ENDS.

CHAP. 10.

ARbitrie or ane compromit, ends and exspirs be the death of the parties, or of the Arbiters.

2. Or quhen the day assigned for pronounciation of the decreit, is expired before the day of the giving of the decreit.

3. Or be paction or mutuall content of the parties.

4. The heire of either of the parties, is nocht oblitted to obey or fulfill the decreit of the Arbiters, gif his father happin to deceis before the giving of the decreit; except speciall mention of heires be made in the compromit.

5. But I aske ane question, gif either of the parties for nocht obeying the decreit, hes payed the penaltie contained in the decreit; Gif the samine selfe partie may be compelled to pay the thing decerned be the Arbiters in their dacreit? J answere, Nay, for twa reasons.

6. The first, Gif he did swa, he wald be suffere d to aske and craue twa contrarious things; for the penaltie is socht, for nocht obedienc

obedience of the decreit: And the thing decerned be the decreit, is craved for obedience, and fulfilling of the decreit. And swa, he seikand things contrare till other, sould nocht be heard.

7. The second reason; Gif the paine contained in ane decreit Arbitrall be taken vp and receaved be the partie, quha affirms the decreit fra the other partie, quha obeyes nocht the decreit: In this case, the payment and solution of the paine, stoppis the payment of the principall thing decerned be the decreit; swa that the samine fall be esteemed as gif it had never bene judged and decerned; because the samine being na decreit *non transit in rem judicatam*.

OF NATIVE BOND-MEN PROCLAMAND
to libertie. CHAP. II.

The brieve of
Bondage.
Glanvil. lib. 5. c.

I.

Quon. Attack. 6.
56.

Consequentlie it followes, to treate of the question of the estate of men; sic as of Natiue bond-men, or of slaues fugitive fra their masters.

There are sundry Charters
which bear cum bondis
et libertate and there
are likewise Manumissions
to be met within
y^e Records.

2. Some time ane pley arises betwixt parties; that is, quhen ane man drawes and clames ane other fra libertie to bondage, and servitude: Or quhen ane halden in bondage clames to libertie and to be frie.

3. Quhen ane man clames ane other to bondage as his awin natiue bond-man; he fall haue the brieve of Bondage direct to the Schiref.

4. Gif the defender quha is alledged to be ane bond-man, affirms himselfe to be ane frie man, and finds ane borgh to the Schiref, for his compeirance and probation of his causses, the pley fall be decided in the samine Schiref dome.

5. And the persewer quha clames the defender, to be his bond-man, fall be summoned; and ane day fall be assigned to him to persew his clame.

6. At the day assigned, gif the defender, quha is alledged to be ane bond-man, compeirs nocht, nor sends na ellsenzie for him: Justice fall be done, conforme to the forme set downe in the treatise of complaints. Lib. 1. c. 7.

7. Gif he ellsenzies himselfe, it fall be lesome to him to dee the samine als oft as said is.

8. Gif the persewer compeirs nocht, nor sends na ellsenzie; the defender fall passe quite, without anie day assigned to him, for

The second Buke,

for his compeirance; and in the meane time he quha is challenged as ane slaue, fall remaine as ane frie man.

9. Gif baith the parties, persewer and defender, compeirs in judgement; the question of libertie fall be pleaded in court, in this maner.

10. Gif the defender, quha affirms himselfe to be ane frie man, producis divers and sundrie his kinsmen, descended of the same stock, with himselfe; quha's libertie is knawin, or proven in court, be ane assise; then he fall be made frie, fra the yock of bondage and servitude.

11. Bot gif the libertie of the kinsmen, quha are produced, is again said; or gif there be anie dout of their estate, recourse must be had to ane assise of the countie: And swa it sal be tried be the verdict, or deliverance of the assise, quhither they be frie men or not, and conforme to that, the Judge fall pronounce decreit in the principall cause.

12. And gif the persewer, quha clames the defender to be his bondman, producis vthers to proue the contrarie, that is, that the persons produced of before, are his native bond-men; in so farre as they are descended of ane common stock, with the defender, quhom he alledges to be his bond-man: In this case, gif they quha are produced be baith the parties, fall be knawin to be common kinsmen to the defender; It fall be tried be ane Assise, quhither they quha are produced be the defender, or they quha are produced be the persewer, are narrest in blude and consanguinitie to the defender. And according to their estate, judgement fall be given anent the estate and libertie of the defender.

13. The libertie being sufficientlie proven in court; the defender, quha's libertie was called in question, fall be simpliciter assolizied, and made quite perpetuallie fra the clame of the persewer.

14. And gif the defender failzie in the probation of his libertie and be found ane bond-man, he fall be adjudged to the persewer, as his native bond-man, without all recoverie, or remedie, with all his cattell and gudes quhat someuer.

15. The same forme and order fall be observed quhen ane freeman is clamed, or alledged to be ane bond-man or contrariwise.

16. But it is to be noted, that singular combat fall nocht haue place in anie pley, to proue or reprove, the libertie or estate of a-

nic

nie man.

BE QUHAT VVAY ANE MAN MAY COME
fra servitude to libertie.

CHAP. 12.

Glanvill lib. 5. c.

5.

Exod. c. 21.

DIvers and sundrie waies ane bond man may be made frie.
2. As gif the maister willing to make him frie, quite clames and makes him to be frie, for himselfe and his heires.

3. Or to the end he may be frie, his maister giues him to anie man; or selles him with the glibe, that is, with the land, quhilk he labors, for the quhilk cause, sic bondmē are called in the civil law, *Nativi a scriptiti* (swa depute to the laboring of the land, and adherent and bond to the samine inseparablie) that they cannot be sauld, except the land be also sauld, and analied with them.

4. It is to be observed, that na bond-man may buy or purches his libertie with his awin proper gudes or geir: for gif he hes swa bocht himselfe be the law, his maister may call him back againe in servitude.

5. Because all the cattell and gudes of all bond-men, are vnderstand to be in the power and dominion of the maister: swa that without consent of his maister, he may not redeme himselfe out of bondage, with his awin proper denires or money (*because he can haue na gudes in propertie*)

6. Gif anie other man with his proper money, buy him fra his maister, to make him frie; the bond-man swa bocht, sal be perpetuallie frie, and defend him against the clame of him qulia was his maister.

7. Alsa, gif the maister hes carnall copulation with the wife of his bond-man, and that is proven be ane lawfull Assise; the bond-man fall be made quite and frie fra the bondage of his maister; and fall receaue na other mends or satisfaction, bot the recoverie of his awin libertie.

8. Likewise gif the maister drawes blude of his bond-man, aboue his breath, and the maister is convict therof, vpon the complaint of the bond-man made to the King or to his ministers of law, he fall be made frie be the Kings benefite and decreit.

Exod. c. 21. 26.

9. Gif the bond-man is deprehended in ane criminall fault, touching life or limme, or in anie other action; and his maister refuse to be borgh for him, to answere as law will; *ipso facto*, the maister fall tinc and amit his bond-man, and he fall recover his libertie, after that he is clenged be ane assise of the crime, quhere-

E

of he

The secund Buke,

of he was accused.

10. Quhen the maister quite clames, for him and his heires, his bondman, or selles him to ane extranear person; he quha swa hes gotten his fredome, may in all time comming, defend himselfe against his said maister, and all his heires; swa that he proue the samine, in court, be writ, or be anie other forme of lawfull probation.

11. For everie frie man, haueand natiue bond-men, may quiteclame and make them frie, in sa far as concerns himself and his heirs; bot not in sa far as pertains to others.

12. Because gif ane man, quha was ane bond-man, and now is put to libertie, in maner foresaid, is produced in court, to passe vpon ane allise, or to make ane acquittance, with ane other man: against ane stranger (*ane other man then his maister, or his heires*) he may be lawfullie repelled; it being objected against him, in court and proven that he was ane bondman:

13. Except he receaved his libertie, and was made frie with licence, gude will, and speciall command of the King.

14. Gif anie bond-man hes dwelt and remained peccable vpon anie mans land, be the space of seaven zeares, not challenged anent his estate, albeit he be ane natiue and borne-bond; he fall he frie fra the zock of servitude.

15. And suppose his maister vnder quhom he was borne, as bond-man, after the seaven zeares, challenge him as his bond-man, he fall not be heard to doe the samine, but fall forfault and tinc his ligeance for ever. And swa he quha was borne bond, after the seaven zeares fall be frie, and sal haue libertie to passe, repasse, come and remaine quhere he pleases frielie, without stoppe or impediment of anie man, to be made to him anent his allegeance.

16. Bot na prescription fall rine or haue place against the the Kings natiue bond-men; for they quhere ever they dwell in anie mans land, fall be restored to the King.

17. Gif ane natiue bondman, quha is bond that ever he be, remaine quietlie the space of ane zear & ane day, in anie privileged toun (*sic as the kings burgh in their communitie or Gild*) & is not challenged be his maister, nor be nane in his name, sic as his baillie or steward, in that case he sal be frie and delivered fra bondage.

18. The pley or mute of bondage, sal not be proponed or moved against anie man, but be the kings brieve (*raised in dew forme*)

BOND-

BOND-MEN SOULD NOT BE PROMOVED
to halie orders. CHAP. 13.

Servile condition is not capabill of the orders, or honours of Clerks.

2. Quhat is then of the law to be said, quhen bond-men not being made frie be their maisters, hes taken orders? In this case ane distinction is to be vsed and observed.

3. For the bond-man is ordered (*receaves orders*) with his maisters witting and knowledge, or without his knowledge.

4. Gif it be done with his maisters knowledge, makeand na contradiction; he is ane frie man, without anie distinction anent the kinde of order, to the quhilk he is promoted.

5. Gif he be ordered without the knowledge of his maister, and of his ordinator, and also of him quha presents him; In that case, he fall be called back againe to bondage, and fall be randered to his maister: swa that he be promoted to anie of the les or small orders.

6. Bot gif he be made a Priest, he sal serue his maister in Gods service, rather then anie other man. And gif he be madeane professed Monke, he fall be made frie from bondage and thirl-dome.

7. Gif ane bondman is made ane Priest, or receaue anie order, with the knowledge of his ordinator or presenter; he fall be ane frie man perpetuallie in all times thereafter.

8. But the ordinator, or the presenter, is bound and oblissed to his maister, to finde and make forthcumand to him ane bond-man, or service of ane bond-man.

9. It is to be observed, that in sic cases, as the maister hes power to revok to bondage his servant, quha is promoted to halie orders, he sould doe the samine within zeare and day, as is before said, of ane bond-man dwelland within burgh, and not after the said time.

10. The zeare and day fall be compted from the time that the maister did knaw the ordination of his bond-man, and not fra the time of the ordination of his servant to be ane Clerk.

11. Bot quhat is to be said, gif the maister challenge the bond-man, quha hes receaved orders against his will, or without his knowledge: before quhat Judge fall this cause be pleaded, anent the estate of the said bond-man.

The second Buke,

12. In this case, it is our will, that this cause, anent revocation or back calling of ane Clerk, from estate clerical, to ane estate servile, fall be pleaded before the jurisdiction of the Kirk, quhere the bondman is ordered, and in na other place.

13. Because it touches the shame and dishonour of the Kirk, quhen ane Clerk is againe called to the estate of bondage.

14. And gif he, be dome or sentence, is ordeined to be restored; before the restitution, he fall be degraded and deprived of all his orders.

MANUMISSION OF BOND-MEN.

CHAP. 14.

MAnumission is ane gift, or grant of fredome and libertie; because als lang as ane man is in servitude and bondage: he is subject to the hand and power of his maister; and quhen he is manumitted, he is made frie fra the hand and power of his maister.

2. Manumission hes the ground and the beginning fra the law of all nations.

3. For be the law of nature, common to all men; all were called be ane common name, *Men*. But be the law of Nations, thrie names or appellations tuke beginning, that is, frie men: and contrair to their estate, others were called bond-men: and the third kinde of men, was these, quha being deliverd fra the estate of bondage, were broght to the estate of fredome, and are called, *libertini*.

4. Bondage and servitude tuke ane beginning fra the drunkenness and ebrietic of Noah (*for he pronounced Cham to be servant of servants to his brether*)

Genes. c. 9. 24.

5. Jlk maister may gif libertie to his bond-men, swa that he doe the same with the Kings licence: otherwise the bond-man is not made simpliciter and frie.

DONATIONS BETVVIX THE HUSBAND and the wife.

CHAP. 15.

Sometime the gift betwixt the husband and the wife, was called, the gift before the mariage: But now the same may be called ane gift, be reason of the mariage: Because it may be given, baith before and after the mariage.

2. This

2. This gift is introduced, and ordeined be the law; that their provisiō may be made to the wife for ane reasonabil living to her.

3. Becausē after the dissolution of the mariage; be that gift it is provided in favours of the wife, that she fall bruke and posses her dowrie, and fall be ~~satisfied~~ therewith, quhilk dowrie of lands or other things, given be the husband to the wife, may not be fauld or analied be him (*without his wifes consent*)

4. The mariage being dissolv'd, the tocher gude returnis and pertains to the wife; likeas the gift for the mariage, returnis and pertains to the husband.

5. It is to be observed, that albeit the gift given before the mariage, be the husband, to his wife: And the gift given be him to her, after the mariage, and in respect thereof, be baith ane; nevertheles, there is ane difference betwixt them.

6. Because, gif the gift is given before the mariage; the ~~sa~~ mine may exceid, and be mair nor the quantitie of the tocher.

7. But gif it be given after the contracting of the mariage, the ~~sa~~ mine may not, nor sould not, be the law of this Realme, exceid the quantitie of the tocher.

8. It is statute, that albeit the wife obtaine possession of the dowrie given to her be her husband, zit she may not take vp, nor intromet with the frutes thereof, induring her husbands lifetime, bot her husband fall intromit therewith, for sustentation of his wife and familie.

9. Otherwise, gif the husband receaves onely the frutes of the gift of his wife (*of the tocher gude given be her to him*) and the wife receaves the frutes of her dowrie, given be him to her: It could not be said, that the husband receaved the tocher, for sustentation of the burding, and charges of the mariage: seing he wants als meikill as he receaved.

10. All other gifts, except the gifts foresaids, are discharged, and forbidin betwix husband and wife, that they throw great affection of mutuall loue betwix them, they spuillzie not other, that they become pure and beggers.

11. Albeit sic gifts made betwix ane man and his wife, induring the time of the mariage, are of nane avail, nor effect: Nevertheles, gif they stand and remaine firme and stabill, induring the life of the *donator*, or giver, be his death, they are made gude and confirmed.

The secund Buke,

OF DOWRIE OR ANE REASONABILL

*Breive of terce.
Glamvil. lib. 6. c. 1*

terce.

CHAP. 16.

THis latin word, *Dos*, hes twa significations; for it commonlie is called and signifies, that, quhilk ane frieman giues to his spoule (*wife*) at the Kirk dure the time of the mariage (*ane reasonabill tierce*)

2. Be the Canon law, and civill law, all men are oblissed to indow and giue ane dowrie to his wife, the time of the mariage.

3. Quhen ane man indowis his wife, either he names the dowrie, or he names it nocht.

*Dowrie nocht
named.*

4. Gif he names it nocht; the third part of all his tenement and heritage perteing to him, the time of the mariage, is vnderstand to perteine to his wife as dowrie.

Dowrie named.

5. The reasonabill Dowrie of ilk wife, is called the terce, or third part of the tenement perteing to her husband, the time of the mariage; quherein he is vest and saised, as of fie and heritage.

6. Gif the husband names expresse the dowrie, to be mair nor the third part of his heritage; the Dowrie may nocht consist, nor stand in sa great ane quantitie: bot it fall be measured conform to the third part, or les nor the third part.

7. Because ane man may giue to his wife, les then the third parte of his heritage: bot he may nocht giue mair then the third, in name of Dowrie.

*Augmentation
of Dowrie.
Glamvil. lib. 6. c.*

8. It happins sometime, that ane man quha maries ane wife, hes litill heritage the time of the mariage, and thereafter is willing to augment the Dowrie with lands conquered be him, conform to ane third or les.

2.

9. Bot gif na mention was made of conquestis, the time quhen the dowrie was named; albeit the husband hes litill heritage, and hes conquered thereafter many lands; the wife may clame na mair nor the third of the tenement (*heretage*) quhilk pertained to her husband, the time of the mariage; because she was first content therewith.

10. The samine is to be said, quhen ane man haue and na heritage, indowes his wife in silver, or other moveabill gudes, and thereafter he purchesses mekill land, or heretage; the wife may clame na parte of the saids lands, as Dowrie.

11. Be

11. Because it is generallic trew, that how meikill it is, that is named to ane woman, for hir dowrie at the Kirk dure, and she be satisfied, and stand content therewith; hir Dowrie may never be augmented thereafter, nor she may never aske or craue ane greater Dowrie.

12. It is to be vnderstand, that the wife may make na disposi-
tion anent her dowrie in the lifetime of her husband.

*Alienation of
Dowrie.
Glanvil lib. 6. c.*

13. Because be the law, the woman is subject to the power and will of her husband, her dowrie and all her gudes quhilk may pertain to her.

14. And therefore, ane man haue and ane wife, in his awin lifetime, may giue, sell, or analie, in anie maner as he pleases, his wifes Dowrie.

15. And his wife is obliſſed in this case, as in all other things, quhilk are nocht against God, pleasantlie to obey him.

16. Moreover, the wife is bound to giue her consent, and obey hir husband, swa that gif he selles hir dowrie, and she consent thereto after his deceis, she may nocht repete the samine fra the buyer; gif she confes in judgement, or makes faith, or is convicted that the samine was fauld be her husband, she make and na contradiction thereto.

*Quon. Att. 20.
Iac. 3 part. 11. c. 83.*

17. After the deceis of the husband, the Dowrie of his wife named be him, is vaicand (*possessed be na man*) or nocht vaicand.

18. Gif it is vaicand, the wife may take possession thereof, and reteine her possession, with consent of the heire of the defunct husband.

*Dowrie vac-
cand.*

19. Gif it is nocht vaicand, either ane parte thereof is vaicand, and ane other parte thereof is nocht vaicand.

20. Gif ane parte is vaicand, the wife may take possession thereof in maner foresaid: And concerning the rest, quhilk is not vaicand; she sall raise a brieue of richt direct to hir warant (*the heire of her husband*) to doe her richt, anent that towne, or plough of land, quhilk she clames to pertain to hir, as hir reasonabill Dowrie.

*Ane parte of
the dowrie is
vacand and
other nocht va-
cand.*

21. The quhilk brieue is of this forme: The King sends greeting to *V.* I command thee, that without delay, thou doe full richt, to *M.* the relict wife of *A.* anent ane plough of land, or sic ane towne, or land, ly and within sic ane place; quhilk she clames to pertain to hir, as hir reasonabill terce and Dowrie haldin be frie

The secund Buke,

be frie service, for payment of ten shillings zeirlic, for all service. The quhilk lands N. deforces and deteins fra her. And gif thou failzie this to doe, the Schiref fall be charged to doe the same: Swa that she fall not be compelled to compleine for inlaik of justice.

Lib. 3. c. 20. c. 21.

22. This pley (*betwix the wife and the possessor of the terce and dowrie*) fall be persewed be the said brieve, in the court of him quha sould warand the dowrie to the wife, ay and quhill it be proven that he hes failzied to doe justice to her; the maner and forme quhercof fall be declared hereafter.

23. Quhilk being proven, the pley fall be advocat to the Schiref, and fall proceed before him in his court.

24. And mairover, at the will and pleasure of the King, or of his Justitiar, the pley may be lawfullie advocat fra the Schiref court, to the Kings court.

25. And be this brieve: The King sends greating to the Schiref. Put before me or my Justitiar sic ane day, the pley, quhilk depends before thee, in the Schiref court, betwixt M. and N. anent ane plough of land, within sic ane towne; quhilk the said M. clames against the said N. to pertaine to her, as her reasonable terce and dowrie, and summond the said N. possessor of the said land, that he be their present, to speik and answer for himselfe, and bring with thee, the testimonie of thy summons; and this brieve.

Glanvil. lib. 6. c. 8.

26. This pley, or anie other pley (*or action*) for many causes, may be advocat fra the Schiref court, to the Kings court, or his Justitiar.

27. And speciallic, gif ane doubt arise, and is emergent in the Schiref court, in the pley it selfe, the quhilk the Schiref cannot judge nor determine.

28. And quhen anie action, for sic ane cause is advocat to ane superiour court, baith the parties sould be summoned, the persewer and the defender.

29. Bot quhen the cause is advocat, at the request or desire of ane of the parties; then it is sufficient to summond that partie onely, quha desired not the advocation.

30. And gif the advocation is granted at the desire, and with consent of baith the parties, being present in judgement; nane of them sould be summoned. Because ane day is vnderstand to be assigned

assigned to them in judgement (*apud acta curie*)

31. At the day alligned in court, either baith the parties (*the relict of the defunct, and the possessour of the dowrie*) compeirs, or ane of them onely compeirs, or nane of them compeirs: of the absence of ane of them, or of them baith, we haue spoken of before. *Lib. 1. c. 7. c. 8.*

32. Baith the parties compeirand in court; the wife fall pro-
pone her clame against her adversar in this maner. *The parties com- peris.*

33. I clame sic land as ane part and pertinents of that land, named be my vmquhill husband, for my dowrie, quherewith he indowed me at the Kirk dore, the samine day quhen he married me, quherein he was vest and saised, the time he indowed me therewith.

34. The partie adversar, may make divers and fundrie answers to this clame.

35. For either he will denie the wife to be indowed with sic lands, or he will grant and confes the samine.

36. Quatever the defender say, the pley sould not proceed, except the heire of the defunct husband be summoned to compeir in court, to heare the said pley or proces.

37. And be this brieve. The King to the Schiref greating; Summond be gude summons N. the heire of A. to compeir before me, or my Justitiars, sic ane day. To warand to M. the wife of A. his predicessour, ane plough of land in sic ane towne: the quhilk she clames to perteine to her, as her reasonabill dowrie, be gift of her husband against N. quhereanent ane pley depends in my court: quhither he sould warant to her the said land, or shaw ane reasonabill cause, quhy he sould not doe the samine. *Glanvil. lib. 6. c. 16.*

38. Gif the heire of the defunct, being summoned, compeirs not, nor sends na essonzie; nor zit compeirs at the fourt court, nor sends na forespeaker for him, conforme to the opinion of some men, he may be distrenzied in his lands, to come to court. *The aire of the defunct compeir is nocht.*

39. Swa that be the consideration of the court, sa meikill of his land may be taken in the Kings hand; quhereby he may be compelled to compeir in court, to shaw quhither he sould warand the saids lands or not. *Glanvil. lib. 6. c. 10.*

40. Or he may be attached be finding of borgh, to compeir in court to doe the samine.

41. The heire of the defunct husband compeirand in judgement

The secund Buke,

Glarvil. lib. 6. c.
11.

ment, either he confesses the lands clamed, to be pertinents of the wifes dowrie, and that she was indowed therewith; and that his predicellor, was vaist and saised thereintill, the time quhen he indowed her therewith: as ane parte and pertinents of the land quhilk he named to her as principall in dowrie: Or the heire denyes all the premises.

*The heir cōperis
and confessis the
clame.*

42. Gif the heire compeirs in court, and confesses the clame of the wife: thereafter he fall be obhilled to recover in judgement the land fra the possessor thereof, gif he please to pley against him, thereanent, and to deliver the land to the wife (*to be possessed be her as her dowrie*) and swa the wife, fall be made quite and frie fra pley; for the pley fall proceed betwix the heire and the possessor of the dowrie.

43. Gif the heire refuses to pley against the possessor: he fall be obhilled and decerned to gif to the wife, ane reasonabill excambion or exchange, of sa meikill land: Because she scould not tine nor be ane loser.

*The heir comperis
and denyis the
clame.*

44. Gif the heire confesses not the wifes clame, against the possessor of the dowrie: the pley fall be betwix the wife and the heire of her defunct husband.

45. Because the wife may moue na pley effectuellie anent her dowrie, against anie persone, nor zit make answer thereanent; except he quha scould be warant to her of her dowrie, be called and summoned thereto.

46. Likeas the Kings brieve is of na force, bot gif the warant be summoned.

47. Gif the heire denyes all the wifes richt and clame, and alleges in court, that she was never indowed therewith, be his predicellor; the querel or pley may be decided be singular battel.

48. Gif the woman hes any sufficient witnes quha heard and saw her to haue bene indowed be the predicellor of the heire, at the Kirk dore, the time of the mariage, and offers himselfe readie to prove the samine against the heire be singular battell.

49. And gif the woman obtaine victorie against the heire, be battell; the heire fall deliver the land clamed to her, or ane competent excambion of als meikill land therefore.

*Pertinents
of Dowrie.*

50. It is to wit, quhen anie man indowes his wife in this manner: I giue to thee sic ane land be name, with all the pertinents. Gif he hes na pertinents pertaining to him in propertie, at the
time

time of the mariage, nor zit the samine time was not vest and faised thereintill; but afterward in his lifetime, recovers the samine belaw, or purchessis the samine be anie other lawfull way: the wife after the deceis of her husband, be the richt of her dowrie, may richtlie and justlie aske and craue that parte and pertinents.

51. It is to wit, that gif the husband of anie wife, hes indowed her with land, and thereafter happins to sell and dispone the samine: his heire fall be oblissed to deliver to the wife, gif he may, her dowrie: and fall be bound to him, quha bocht it, to giue him ane reasonabill exchange of als meikill.

All the dowrie is

52. Quhen all and haill the wifes dowrie is vacant, swa that *vacant*, she hes na parte thereof, the procellese fall be decided in the Kings court.

53. And he quha with holds the dowrie, fall be summoned be this brieve: The King to the Schiref greating. Command B. that instantlie and without delay, he deliver and restore to M. quha was wife of N. her reasonabill dowrie in sic anetowne; quhilk she alledges to pertaine to her, be gift of her vmquhile husband, and quhereof she posselles na parte, as she alledges. And inquire him, for quhat cause he deforces and deteins the samine fra her. Quhilk gif he refuses to doc summond him lawfullie to compeir the samine day before me or my Justitiars, to answere quherefore he does not richt and justice thereanent. And bring with you, the testimonie and verification of this summons and this brieve.

54. Quha soever posselles and deteins the dowrie, quhither he be the heire of the husband decelssed, or anie other man: it is necessare that the heire be ever present to make answere to the wife clamand her dowrie.

55. Gif the heire deteins to the dowrie fra the wife; he fall be summoned be ane brieve.

56. The pley anent the wifes dowrie, betwix her and the heire may be moved many and sundrie wayes.

57. Because the wife may clame her dowrie, as named be her vmquhile husband: Or as not named.

58. And the heire also grants and confesses the samine to haue bene named, or not to haue bene named.

59. And gif contention is betwix them touching the dowrie
named

The secund Buke,

*Glanvil, lib. 6. c.
16. c. 17.*

named, or anent the diversitie or varietie of the names thereof, the pley fall proceid in maner foresaid.

60. Gif ane reasonabill dowrie, not named, is craved: be the law it is certaine that the heire fall be compelled to assigne to the woman as dowrie, the thrid parte of all the frie tenement, quhilk perteind to his predicellor in proprietie, the time of her mariage, frie in all things, in lands, tenements, and advocacion of kirks.

61. Swa that gif there be bot ane kirk, within the bounds of the haill heritage, and the famine happen to vaikie induring the wifes lifetime: after the deceis of her husband, the heire may not without consent of the wife, present ane persone to that kirk.

62. The principall messuage is excepted, the quhilk may not be giuen, as Dowrie, nor may not be devidid, but fall remaine haill with the heire.

63. Gif there be twa or mae manours to be devidid, the principall manour fall not be devidid; but fall remaine haill, and the chief messuage with the heire: swa that the wife receaue satisfaction therefore.

64. The Dowrie assigned to ane woman, and quherewith she is first indowed; fall not fal, nor come within ane division of ane other Dowrie, to be assigned to ane other woman (*the great thrid fall not be compted in the division of ane secund thrid*)

65. Assignment of ane Dowrie to ane wife, fall not be stopped, be reason of the age of the heire. For albeit he be minor, and of les age: nevertheles, he fall be compelled to pley (*and answer to the wife*) in this case.

66. Mair over, be assignment of ane dowrie to ane wife, she thereby acquires not the proprietie thereof: bot onely possession for her lifetime.

*Advocation of
kirks.*

67. It is to be vnderstand, that gif anie land is named to ane wife, as her dowrie; within the sic and proprietie quhereof, there is ane kirk founded: after the death of her husband, she fall haue the richt of presentation.

68. Swa that quhen the said kirk fall happin to vaik: she may present thereto ane qualified Clerk, in life and literature.

69. Bot she may not giue that kirk to ane college: because thereby the heire will be perpetuallie defrauded of the richt of presentation (*seing ane college never deis*)

70. Gif the husband of the wife, in his lifetime, did giue that
kirk

Kirk to anie Clerk qualified, the samine Clerk fall posses the samine induring his lifetime; albeit he was presented thereto, after that the husband indowed his wife with the land, within the quhilk the Kirk lyis.

71. Nevertheles, gif the husband gaue the Kirk to anie Religious house; after his deceis, his heire fall deliver the Kirk to the wife; swa that induring all the dayes of her life, she may haue the richt of the presentation thereof.

72. And after the deceis of the wife, and of the Clerk, presented be her: the Kirk returns to the religious house, and fall remaine therewith for ever.

73. It is to wit, that gif the wife be separat fra her husband, in his lifetime, for filthines of anie^a crime: she may na way aske or clame ane Dowrie, after her husbands deceis.

74. The like is to be said, gif she be separate fra him, for parentage, and sibnes of blude (*within degries defended and forbid-
din*) And nevertheles, the bairns gotten and procreat betwix them, may be heire to their father, and be the law of the Realme may succed to him.

75. Quhen ane sonne and heire of anie man, with consent of his father, maries ane wife; and be assignation made be his father, giues ane parte of his fathers land to her in Dowrie; she may never seik or craue ane mair land in Dowrie.

76. Gif her husband deceis before his father: It may be asked, how fall she reteine and posses that land; or gif the father of her husband, fall warant the samine to her: It is answered, that the father of her husband fall be compelled to warant the samine to her.

77. Gif the wife hes ane greater Dowrie, then she sould haue be the law; command fall be giuen to the Schiref, to cause mett, and measure the samine;

78. Be this brieve: The King to the Schiref, Greeting. Complaint is made to vs be M. that C. hes of her Dowrie mair of his heretage then she sould haue be the law; or sould justlie perteine to her: that is, mair nor ane reasonable dowrie. Therefore I command thee, that without delay, richteouslie thou cause the said C. to haue that quhilk she sould haue, and perteins to her to haue, as ane reasonable Dowrie; that she fall not haue cause to compleine, for inlake of justice.

The secund Buke,

THE CAVSSIS OF TYNSELL OF THE Dowrie. CHAP. 17.

FOure maner of waies, the wife may tine and amit her Dowrie.

*In many bukes
this chaptour is
not contened.*

2. First, gif she be sa zoung and tender of age, that she may not haue carnall copulation or companie with her husband.

** Be the courtie
sie of Scotland.*

3. Secondlie, Gif the husband had anie land of before, in name of^a tocher, with his first wife, before the secund mariage with the secund wife: after his deceis, the secund wife may seik nor craue, na parte as Dowrie to her: Because her husband had the samine lands in custodie and keiping; and therefore micht not dispone them to anie other persone.

4. Thridly, the wife forfaltis and tines her Dowrie, gif her husband happins to be convict, and condemned in judgement, as ane tratour against the King, the Realme, or the Kings armie, or in anie cause of felonie.

5. Fourtly, the wife forfaltis her Dowrie, gif she is divorfed and separat be sentence of the Ecclesiasticall Judge, fra her husband, be reason of Adulterie committed be her.

LANDS GIVEN AS MARITAGE, OR TO- cher or for other caussis. CHAP. 18.

THIS latin word, *Dos*, hes ane secund signification, conforme to the civill law of the Romans: And is called, that quhilk is giuen be the womans friends with her, to the husband, and commonlie is called *Maritagium* (or tocher)

2. Ilke frie man, haue and land perteing to him, may giue ane parte thereof, with his dochter, or with anie other woman, as tocher, in name of maritage; quhither he haue ane heire or not.

3. And gif he hes ane heire; quhither the heire will or not, he may giue ane part of his lands or heretage, to anie man for recompence or rewarde of his service, or to anie religious house in name of almes.

4. Swa that gif saising is taken, conforme to the said gift; the land fall remaine perpetuallie with him and his heires, to quhom it was given; providing that the gift thereof was heretablie

tablie made and given.

5. Bot gif na laising is taken, conforme to the said gift, after the death of the giver: nathing can be asked or craved without consent of the heire.

6. Because conforme to the consuetude of this Realme, and richt interpretation of the law, sic ane donation is vnderstand, to be ane hecht or bair promise, rather then ane trew or effectuall gift.

7. Albeit it is lesome to ilk man to giue ane reasonabill portion of his lands, to quhom he pleases, induring his lifetime, in his liege poustie: Nevertheles, vpon his dead bed, in the time of seiknes, in the quhilk he deceitles, it is not permitted to him to doe the samine.

8. Forthen in ane litill space of time, he micht dispone and analie all his heretage, gif sic libertie were permitted to him: quha throw the great heate and vehemencie of the present seiknes, tines memorie and judgement: as sundrie times happins to manie men.

9. Swa it may be presumed, gif anie man being deadlie seik, begins to make disposition of his lands; quhilk in time of his health he did not; that he did the samine be ane troubil of minde, and not be ane sure and certaine deliberation, or advisement.

10. Nevertheles, the gift of lands made vpon dead bed, be anie man, may be gude and lawfull, gif the samine be made with the consent of the heire: or being made is ratified and confirmed be him.

LANDS GIVEN TO ANE SONNE BEGOT-

tin vpon ane Concubine, or to ane bastard sonne. CHAP. 19. Glanvil. lib. 7. c.

QWhen ane man giues his lands in maritage (or tocher) or ^{I.} dispons the samine in anie maner of way; either he hes heretage onelie, or he hes purches or conquesse onelie, or he hes baith heretage and conquesse. *Of heretage onelie.*

2. Gif he hes heretage onelie, he may giue to quhom he pleases, ane parte of that heretage, to quhom he pleases, as said is.

3. Bot gif he hes mony sonnes, called *Mulierati* (that is, gotten and procreat vpon ane Concubine, or as we commonlie say, vpon ane aneabil or singill woman, quhom he maries thereafter, as his lawfull wife) he may not for anie licht cause, without consent of his

The secund Buke,

heire, giue to the said after-borne sonne, anie parte of his heretage, albeit he be weill willing to doe the samine.

4. For gif that were permitted, oft times sould happin the exheredation, and disherasing of the first-borne sonne; be reason of the great affection and favour, quhilk the father beares to the after-borne sonnes.

5. Bot gif ane man hes ane sonne, or ane heire, it is never permitted, that the father sall giue anie parte of his heretage to his bastard sonne.

6. For gif it were vtherwise, the bastard sonne sould be of better condition, nor the after-borne sonne (*of ane woman being ane concubine; and thereafter ane lawfull wife*) quhilk is not permitted be the law.

HOW MEIKILL OF HIS CONQUEST ANE

man may ane.

CHAP. 20.

G'nvil. lib. 7. c.

1.

Conquest onlie.

GIf ane man willing to dispoone ane parte of his lands, hes onelie conquest, it is lesome to him to giue parte thereof; bot not all and haill the conquest, for it is not lesome to him to disheris his sonne.

2. Bot gif he hes na sonne nor dochter, procreat of his awin bodie; he may giue to quhom he pleases ane parte, or all his conquest heretablie.

3. Swa that he to quhom the gift is made, hes obteneid satisfying thereof, before the deceis of the giver; na heire being of farther degrie nor the sonne or dochter, may impugne that gift ane maner of way.

4. Ilke man may giue and dispoone all his conquest, sa lang as he liues; bot he can not make na heire thereof, neither ane college, nor na other man: Because onelie God makes heires, and not man.

Heretage, and conquest.

5. Gif he quha wald dispoone ane parte of his land, hes baith heretage and conquest: then without all distinction it is trew, that he may giue to his after-borne sonne, or to ane other as he pleases, anie parte, or all and haill his conquest to remaine with him perpetuallie. And likewise, he may giue reasonable of his heretage, as said is.

OF FRIE SOCCAGE. CHAP. 21.

GIf anie man hes lands haldin in frie soccage (*in blensh* ^{Glanvil.lib.7.c.1} *or few*) and hes mony sonnes, quha succeids be equall portions in that land: he may giue na mair of his heritage, nor zit of his conquest (*gif he hes na heritage*) to anie of his sonnes: bot sa meikill as may fall or perteine to him, be reason of succellion, after his fathers deceis.

2. For the father may giue to anie of his sonnes induring his lifetime, als meikill of his lands, halden in frie soccage; as the samine sonne, will get and receaue, be reason of succellion (*to his father*)

OF THE SUCCESSION OF THE SE-
cund brother, quha hes receaved lands fra his father,
or fra his eldest brother haue and sonnes, and de-
ceisses before his father, and his eldest
brother. CHAP. 22.

BE reason of the liberalitie quhilk the father vses toward his ionnes, or other men: anent sic gifts and donations, some questions ariles. ^{Glanvil.lib.7.c.1.}

2. Swa, let it be supponed, that ane knight (*haldand his lands be Knichts service, of warde and releue*) or anie frie man, hes procreat lawfullie foure, or mair sonnes, vpon ane mother: And he giues heretablie to ane of them, that is, to the secund borne, narrest after his heire, ane reasonabill portion of his heritage; with consent of his hiere, that there sould be na contention betwix them: And the said secund sonne, obtains saising of the lands, and vptakes the commodities and issues (*fruttes*) thereof, sa lang as he liues. And it happins that he being in possession, deceittles before his father, and all his brether. Ane great doubt is amonst the laweres of the Realme, and ane disputation in the Kings court; quha sould succeid to him (*to the secund sonne*)

3. The father of the sonne quha is deceifted, contends to haue saising of the land, and alledges that the samine quhilk was giuen be him, sould returne againe to him.

4. Anent this controversie in court, it is answered be the eldest sonne to the father; that the father can not be heard to clame

The secund Buke,

the land: Because it is generallie trew, be the law of the land, that ane man may not be baith over-lord and heire (*vassall*) of ane land or tenement.

5. Be the famine reason, the mid begotten sonne (*quha before the deceis of the secund, was thrid sonne, and now after his deceis is secund*) all edges, that the said first begotten sonne sould be repelled fra that succession: for seing he is appearand heire, of all the lands and heritage, he can not be ouer-lord and heire of that part of the heritage.

6. Mairover, gif the father happins to deceis before the eldest sonne; he will be Lord and proprietar of all the heritage: and then be the reason foresaid, the land quhilk is in controversie, could not remaine with him.

7. Therefore, gif he could not reteine the famine perpetuallie, how can he aske or craue the famine perpetuallie to pertaine to him. And likewise the zongest sonne, of all, be the famine reason, appearandlie may exclude all the sonnes gottin and borne before him.

8. The like question may happin to rise: Quhen ane elder brother giues heretable, to his after begottin brother ane portion of land. And the brother to quhom the land is giuen, deceis before his brother, without heires gottin of his awin bodie: The brother quha gaue the land, contends to take it againe to himselfe, as ane parte of his fie and heritage, and now possesed be na man.

9. Twa sonnes of the eldest brother, clames against their father, the faising of the land; be the death of their father brother.

10. And swa the pley may proceed: and the eldest sonne against the father; and the secund sonne against the elder brother may pley in maner foresaid.

11. Bot it is to be vnderstand, that be the law of the realm that the father may na way seik nor reteine that land: because, as said is, he can not be baith over-lord, and heire of the famine.

12. Mairover, the land swa given, can never returne to the giver, speciallie gif homage be made therefore, be the receaver to the giver: and he haue ane heire, lawfullie gottin of his bodie, or anie other farther heire to succeed to him.

13. Attour the land swa given, with homage following there vpon, is vnderstand to be heritage, and not conquest or purchases.

ches. And swa naturallie descends, and never orderlie ascends.

14. And swa the mute or pley fall cease, betwix the father and the eldest sonne in maner foresaid. Nevertheles, the pley may proceed, betwix the first begotten sonne, and the after-begotten sonne, as said is.

15. As touching the secund doubt or question, it is be considered, that with advise of the Kings court, and conforme to equitie, sometime the land swa given, fall remaine with the first-borne sonne: speciallie, gif he hes na other heritage in his possession; ay and quhile all his fathers heritage be delivered to him. Because in the meane time he not being lord, and proprietar of his fathers heritage, the foresaid rule, hes na place against him; be the quhilk it is said, that na man at ane time, may be overlord, and hiere of ane land.

16. Bot it may be demanded, that seing the first borne sonne be reason of that succession, becomes lord of that parte of the heritage: fall not be als wa heire of the samine parte, seing he is heire of all the heritage?

17. It is answered. It is vncertaine as zit, quhither the first-borne sonne fall be heire or not. Because gif his father deceitles before him; it is manifest that he may be his heire. And gif swa be, he fall cease to be over-lord of that land; quhilk he acquired be the succession of his father brother. And then the samine land, fall pertene to the after-borne sonne as richteous heire thereof.

18. Bot gif the first-borne sonne deceis before his father; it is certaine that he was never heire to his father: and swa in his persone concurre not thir twa richts of superioritie and propertie.

*PRELATS MAY NOT ANALIE THEIR
lands, without the Kings confirmation.*

CHAP. 23.

IT is to be observed, that Bishops, Abbats, may not dispo-
neretablie, anie part of their lands, without consent or confir-
mation of the King.

2. Because their lands and baronies, are ane parte of the almes
of the King, and of his predecessors.

*Glanvil. lib. 7. c.
1. in fin.*

*Mar. parl. 10. c.
88.*

*Inc. 6. parl. 9. c. 7.
parl. 5. c. 66. parl.*

13. c. 69. parl. 13.

c. 187.

THE

The second Buke,

THE HEIRE SOULD VVARAND THE GIFT of his prediceffour. CHAP. 24.

Ire. 4. parl. 6. c.

76.

Iac. 5. parl. 7. c.

106.

THe heire of the giver is bond and obliffed, to warand his donation and gift law fullie made to the donatar, to quhom it is made, after the forme and tenor of the gift.

OF THE QUALITIE AND DIFFERENCE of heires. CHAP. 25.

AIres (or *universal successors*) some are narrest heires, some are farther.

2. Narrest heires to anie man, are they quhom he hes begotten of his awin bodie, as his sonne or dochter..

3. Quhilks failzeing, the farther heires succeids; as the Nephew, the Niece, procreat of the sonne, or of the dochter, in the right line; and swa forth infinitlie.

4. *Item*, the brother, the sifter, and all persons descendeand of them in the side line.

5. The father brother of the fathers side, the mother brother of the mothers side: the father sifter, the mother sifter; and all descendeand of them.

THE SVCCSSION OF THE SONNE TO the father. CHAP. 26.

Glanvil. lib. 7. c.

3.

GIf anie man haueand heretage deceissis, and hes bot ane sonne, without anie distinction, the sonne succeids to all his fathers heretage: quhether he be borne of the first wife, the secund wife, or the thrid wife.

2. And therefore, gif ane man hes had mae wives, and with ilke ane of them hes gotten dochter or dochters; and with the last wife hes gotten ane sonne; that sonne onely fall succeid to all his fathers heretage and lands.

OF THE SVCCSSION OF SONNES TO the father. CHAP. 27.

Glanvil. lib. 7. c.

3.

Deuter. c. 27. 8.

GIf ane man deceissis, leaueand behind him mae sonnes nor ane, ane distinction is to be observed, quhether the father was ane Knicht, haueand lands halden be knichts service (*that is be service of warde and releue*) or ane Socco-man.

2. Gif

2. Gif the father was ane Knicht; in that case his eldest sonne succedeis to all his heretage: and nane of the rest of his brether may craue anie parte thereof.

3. Gif the father was ane frie Socco-man; the heretage fall be divided amongst all his sonnes, be equall parts; gif in auld times that Soccoage was divided.

4. Reservand alwaies the chiefe messuage, to the eldest sonne, in respect of the dignitie of his birth-right: for the quhilk he fall satisfie his brether, according to the valour thereof.

5. Gif it was not in auld times divided, be the consuetude of some, the eldest sonne is heire of all the heretage; and be the consuetude of others, the second sonne is heire.

6. Bot gif ane Socco-man hes ane sonne onelie, he fall be heire in all.

THE DOCHTERS SVCCEIDS TO THE
father.

CHAP. 28.

Glanvil.lib. 7.c.

G If there be ane dochter, the like is to be said of her, as is said 3.
of ane sonne.

Num.c. 27.i.

2. Gif there be moe dochters nor ane, the heretage fall be divided amongst them; quhither their father was ane Socco-man or ane Knicht, or ane Burges, or anie other frie man.

3. Reservand the chiefe messuage, to the eldest dochter, in maner foresaid.

4. It is to be observed, that gif anie of the brether or sisters amongst the heretage was divided, happins to to deceis without heires of his bodie lawfullie gotten: his or her portion fall be divided amongst the rest of the brether or sisters, quha remains liueand.

HOMAGE MADE BE THE HVS BAND OF
the eldest dochter.

CHAP. 29.

T He husband of the eldest dochter, fall make homage to the over-lord for all the heretage.

Glanvil.lib. 7.c.

2. And the after-borne dochters, or their husbands, are ob- 3.
lissed to doe service to their over-lord, for the tenement, be the hand of the eldest dochter, or of her husband.

3. The husbands of the after-borne dochters, are not bound nor oblissed to make homage, or anie fidelitie to the husband of
the eldest

The second Buke,

the eldest dochter in his lifetime, nor zit their first or secund heires can be compelled to doe the samine.

4. Bot the thrid sonne or thrid heire, descendeand of the after-borne dochters, conforme to the consuetude of the Realme, sould make homage to the heire of the eldest dochter, and giue to her ane reasonabill releue.

5. Mairover, the husbands of anie wemen being heretrices, may not dispone nor giue anie parte of their wifes heretage to anie man, without consent of their heire or heires: Nor zit remit or diminishe the richt of the heire, bot onelie induring their lifetime.

*Henr. 3. An. 14.
in the statute of
Ireland.*

THE SONNE EXCLVDS THE DOCHTER.

Glanvil. lib. 7. c.

CHAP. 30.

3.

GIf ane man hes ane sonne, and alsua ane dochter, or dochters; the sonne succeids to all his heretage.

2. Because it is generallie trew, that ane woman is never partaker of anie parte or portion of heretage with ane man.

3. And swa the sonne borne of the first wife, secund wife, or last wife, succeids to all and haill his fathers heretage, and excluds all his sisters therefra.

IN QVHAT MANER THE DAVCHTERS OF

Glanvil. lib. 7. c.

sundrie wifes succeids.

CHAP. 31.

3.

IT happins some times that ane man hes had sundrie wifes, and hes begottin dochter or dochters, with ilke ane of them: all the dochters fall succeid to their fathers heretage; in sic ane maner, as giue they were borne all of ane mother.

2. And this is to be vnderstand of the fathers heretage, descendeand fra him to them.

3. For gif the heretage descend and come of the mothers side, ilke dochter fall succeid to the heretage of her awin mother.

THE SVCCESION OF NEPHEOIS AND

Niecis.

CHAP. 33.

Glanvil. lib. 7. c.

GIf ane man deceis without sonne or dochter, and hes Nephos, or Niecis of ane sonne or of ane dochter: they all succeid to him, in the samine maner, and with the samine distinction

as is

as is before said of ane sonne and dochters.

2. For they quha descends in the richt line, are ay preferred to them quha descends of the collaterall, or side line.

Glanvil. lib. 7. c.

3.

OF ANE AFTER-BORNE SONNE, AND
ane Nephoy of ane first-borne sonne. CHAP. 33.

GIf ane man deceis, haueand ane^a after-borne sonne, and^a *second sonne* ane Nephoy of his first-begotten sonne, alreadie deceissed: Ane great doubt and question vies to be, quhilk of them sculd be preferred to other in the succession of their father; quither the sonne or the Nephoy.

2. Some alledges, the after-borne sonne to be mair richteous heire, then the Nephoy.

3. Because the first-borne sonne deceissed before his father, and swa did not liue nor remaine to be his fathers heire.

4. And therefore the after-borne sonne did liue after his father, and his elder brother: they affirme that he richtlie succeids to his father.

5. Others are in the contrare (*and trew opinion*) and sayes, that the Nephoy gotten be the first-begotten sonne, be the law, sculd be preferred to his father brother.

6. For the Nephoy is descended of the first-borne sonne, and is begotten of his bodie; gif his father were as zit liueand, and happined to deceis before him, he wald succeid to all the heretage pertaining to his father.

7. And this I say, to be of veritie, gif his father was not *foriss-familiat* (*be the gudschir*)

8. The sonne in the fathers lifetime may be *forissfamiliat*, gif the father giues and assignes to him ane portion of land; and before his deceis, giues him saisng thereof, at the desire and gude will of his sonne; swa that he stand content, and confessis himsele to be satisfied, with sa meikill of the land.

9. The heire of the sonne gotten of his awin bodie, may craue na mair fra his father brother, of the rest of his gudeschirs heretage (*then that part quhilk was assigned to his father*)

10. Mairover, gif the first-borne sonne in his fathers lifetime, did make homage for his fathers heretage, to his chief overlord; albeit he deceis before his father: there is na doubt, bot the sonne of the first borne sonne (*that is, the Nephoy*) wil be preferred to

The second Buke,

to his father brother.

11. Bot in this case, ane pley may be, betwix the Nephoy and the chief over-lord, gif the over-lord refuses to receaue his homage (*to receaue him as heire to his father*)

12. And sic like, ane pley may arise betwix the over-lord and the father brother: Gif the over-lord receaues homage fra the Nephoy, and warands the samine to him: And hereanent the mater may come to singular battell betwix them.

13. Gif it can not be proven, that the homage was made betwix the Nephoy and the father brother, he salbe preferred quha is in possession. For the condition of the possessor is best.

OF COLLATERALL HEIRES.

CHAP. 34.

Glanvil. lib. 7. c. 4. **F**Ailzeing of them, quha are descended in the richt line, the brother or brether succedeis.

2. And gif there be na brether, the sister succedeis.

3. And after their deceis, their bairns are heires.

4. After them, being male or female, the father brether, or their bairns, hes the richt of succession.

Numer. 27. 10. c. 36. 1.

5. Last of all, the father sisters or their bairns, are admitted to succession.

6. But it is necessar to obserue the distinction before mentioned, betwix the sonne of ane Knicht, and the sonnes of ane Socco-man; and amongst Nephoyes, and also the distinction betwix male and female.

Supr. c. 27. c. 26. c. 32. **THE OFFICE OF HEIRES ANENT THE**
testaments of their prediceffours. **CHAP. 35.**

Iac. 4. parl. 6. c. 76
Glanvil. lib. 7. c. 5.

THe heires are bound and oblissed to fulfil and obserue the testaments and letter will of their fathers, and others their prediceffours.

2. And als wa the heirs sould pay their debts.

OF TESTAMENTS, BE QVHOM, IN QVHAT
maner, of quhat things they sould be made. **CHAP. 36.**

Glanvil. lib. 7. c. 5. **A**ll frie men, not being burdened with great debts, in time of seiknes (*or in time of health*) may make ane lawfull testament of his

of his gudes and geir.

2. In this maner, conforme to the consuetude of the countrie, that is, first he fall acknowlege his Lord, with the best and principall thing quhilk he hes.

3. Thereafter the kirk and other persons as he pleases.

4. Quhatever be the consuetude of sundrie countries in this mater; conforme to the law of this Realme, na man is bound and oblitted, to leaue in his testament anie thing to anie man, except he please to doe the samine of his awin frie will.

5. Be this law, and all other lawes, ilke mans last will sould be frie (*and voluntare as he pleases*)

6. Ane woman being frie and subject to na man, may make ane testament.

7. Bot gif she is vnder power of her husband, she may make na disposition in her letter will, anent her husbands gudes and geir, without his consent and authoritie.

8. Nevertheles, it is very honest to the husband, gif he fall permit and giue licence to his wife to make ane reasonable testament, of the thrid parte of his gudes and geir: quhilk will happen to perteine to her, gif she liues after him. Quhilk sundrie husbands vses to doe, and therefore sould be meikill commended.

THE DIVISION OF THE GVDES IN
ane testament. CHAP. 37.

Q When ane man in time of seiknes, not charged with debts, will make his testament; all his moveable gudes fall be divided in thrie parts equallie. *Glanvil. lib. 7. c. 5.*

2. Quhereof ane parte pertains to the bairns, the secund parte to his wife, the third parte is reseruand to him quha makes the testament. *Magna Charta. c. 18. Leg. Burg. c. 124*

3. Of the quhilk third parte, the maker of the testament hes frie power to make disposition thereof, as he pleases.

4. Bot gif he hes na wife, the time of his deceis, the ane just halfe of the gudes, is reservand to him, to be disposed as he pleases (*and the other halfe to the bairns*)

5. In his letter will, he may make na disposition of his heritage, as is said before. *Supr. c. 18.*

G

OF

The second Buke,

OF WITNES AND EXECUTORS.

CHAP. 38.

Levitic. c. 5. v. 1. **A** Ne testament sould be made before twa or moe men, Clerk
or laiks; quha may be lawfull witnes thereanent.
Deuter. c. 17. v. 6. c. 19. v. 15. 2. Executours of the testament, sould be sic as the maker of
the testament, elects and nominats to that effect, and to quhom
he commits that cure.

3. Gif he quha makes the testament, nominats na man;
the narrest of his kin, in consanguinitie, may offer themselues to
be executours.

4. And gif they vnderstand, that the gudes and geir quhilk
pertained to the defunct, are witholding and deteined be the
heire, or be anie other man: they fall haue the Kings brieve di-
rect to the Schiref in this maner, The King to the Schiref, grea-
ting. I command thee, that justlie and without delay, thou fall
cause the reasonabill testament of N. to stand valied, as it may
best and reasonable stand, in sic ane forme as he made the sa-
mine; and as anie other testament may stand.

5. Gif anie man summoned and conveined, be the authoritie
of this brieve, alledges anie thing against the testament, that is,
that it is not lawfullie made: or that the thing clamed, was not
left in legacie. In this case, that pley fall be heard, and finallie en-
ded before the Judge ecclesiasticall.

6. Because actions and pleyes anent testaments, sould be in-
tended before the Iudge ecclesiasticall, and there finallie decided,
conforme to the testimonie of sundrie witnes, quha ware present
at the making of the testament.

PAIMENT OF DEBTS AVVAND BE THE defunct.

CHAP. 39.

Gif he quha intends to make ane testament, is burdened with
debts, he may doe na thing, anent his gudes and geir: vntill
his debts be first paid, without he doe the samine with consent
of his heire.

146. 4. part. 6. c. 76 2. And gif anie gudes are restand, after payment of the
debts; the samine fall be divided in thrie parts, as said is. And he
fall haue libertie to make disposition in his testament of the third
thereof, as said is.

3. Gif

3. Gif the gudes of the defunct are not sufficient for payment of his debts: be the law, his heire sould pay the samine; of his awin proper gudes: speciallic gif the heire is of lawfull age.

Iac. 4. parl. 6. c. 76.

OF HEIRES OF LAVVFULL AGE.

CHAP. 40.

SOME heires are major, and of lawfull age; others are minors and of les age; and of others, it is doubted quhither they be majors or minors.

Glanvil. lib. 7. c. 9.

2. Heires being of lawfull age, incontinent after the deceis of their predicessours, they may enter to their heretage.

Henr. 3. An. 52. c. 16.

3. Albeit the over-lord may take the sic and heretage in his awin hand, zit he sould doe the samine reasonable (and not dispossesse the heire)

4. The heire may, gif necessitie require, resist the force and violence of his over-lord, swa that he be readie to pay his releue, to his over-lord, and doe to him all other service vsed and wont.

THE LAVVFULL AGE OF HEIRES.

CHAP. 41.

GIF it is certaine that the heires are minors; they fall be in the warde and custodie of their over-lords, ay and quhill they be of lawfull age: swa that they be the heires of ane knight, hald- and his lands be warde and releif.

Glanvil. lib. 7. c. 9.

2. And of sic heires being mailes, the perfite age is twentie ane zeares, gif they be heires of lands haldin be service of warde and releif.

Henr. 3. An. 52. c. 16.

Henr. 6. An. 39.

3. And gif they be heires female; they are of perfite age, after fourtene zeirs compleit.

c. 3.

4. The heire of ane Socco-man or of other frie tennents, hald- and their lands, be blen she ferme; is vnderstand to be of perfite age, quhen he is passed fiftene zeares of his age.

5. The heire of ane burges, is of perfite age, quhen he is fourtene zeares compleit, or quhen he can number and tell silver; or measure claith (with ane elwand) or doe other his fathers busi- nes and affairs.

The second Buke,

THE POWVER OF THE OVER-LORD ANENT

Glanvill. lib. 7. c.

his vassallis, haldand of him be knights service. CHAP. 42.

9.

Henr. 3. in Mag-

na Charta. c. 4. c.

5. c. 31.

Edward. 2. An.

17. de prerogati-

va. Regis. c. 1.

Infr. c. 68.

THe over-lords hes full power and custodie of the heires of their vassallis, and of their lands, vntill their perfite age; and hes full power to dispone the saminc: As the right of prelation to kirks, founded within the saids lands, quhen they fall happin to vaik (*induring the time of the warde*)

2. And anent the mariage of women heretriches; gif anie fall happin to be in warde, haldand of the heire, be Knights service (*as subvassellis to him, and not married with ane husband*)

3. The over-lord hes power to dispone all the affairs pertaining to the heire; as he vses or may dispone his awin proper turnis.

4. Nevertheless, he may not analie anie parte of the heires heretage, heretablie: nor for na longer space, then the warde of the heire induris.

5. The over-lord fall susteine the heire honestlie, conforme to the quantitie of the heretage, and the time of the warde.

6. He sal als wa pay for relieue of the heire being in his warde the debts aucht and be the defunct; according to the quantitie of the Rents of the heretage, and induring the time of the warde. And fall be answerable and pay all the debts aucht and be the prediessor of the heire.

7. The over-lord fall doe all the turnis and affairs pertaining to the heire, and fall persew all his pleyes and actions for him, be the quhilk he may conques or purches to him anie thing. Albeit ane exception of minoritie, and les age fall happin to be proponed be the defender against the heire.

8. Bot the over-lord is not oblissed to answeere for the heire in anie thing touching richt (*heretage*) or saising.

Lib. 3. c. 33. 15.

9. Except in ane case, that is: Quhen ane over-lord being minor, hes the wards and custodie of his vassall being also minor, be reason of the death of his father: and the vassall come and to perfite age, desires his heretage fra his over-lord being as zit minor; and alleageand, that he sould not restore the heretage, vntill he be of perfite age. In this case, the vassall may raise ane Assise, and the brieve or recognition of *mortancestrie* against his over-lord, albeit he be minor

10. And

10. And the saising fall be giuen to the vassall persewer, and the proces and recognition fall proceed; notwithstanding the minoritie and les age of the over-lord.

11. Gif ane minor is challenged of felonie, he fall be attached be safe and suze borghs. And sa lang as he is within age, he fall not be compelled to answer thereanent: bot quhen he is major he fall answer.

12. The over-lords sould restore and deliver to the heires, their heretage, made quite and frie of debts, according to the time of the warde, and quantitie of the heretage (*and rents therof*)

OF HEIRES OF *QVHAIS* AGE THEIR IS
ane doubt. CHAP. 43.

Q When ane doubt is of the age of ane heire, then the over-lord fall haue the heire and his heretage in his custodie, ay 11. *Glanvil. lib. 7. c. 11.* and quhill the age be provin be leill men, of neighbours, and be their aiths. *Henr. 3. An. 9. c. 5.*

OF ANE VASSALL HAVE AND MOE OVER-
lords nor ane. CHAP. 44.

G If ane heire fall in warde, hes moe ouer-lords nor ane; his chiefe over-lord (*to quhom the first ligeance was made for the first infeftment*) sould haue the warde of the heires persone and bodie (*together with his mariage, and the warde of the lands haldin of him*)

2. And as touching other lands haldin be the heire of other superiors, he fall be oblitted to pay the relieue, and to doe all other service, to ilke over-lord of the same lands. And the warde of the lands fall pertain to ilke ane of the over-lords.

3. Bot it is to observed, that gif anie man halds lands in cheif of the King: the^a ward thereof, quhen it fall happin, fall fullie pertain to the King; quither the vassall, hes moe over-lords or not: for the King can haue na peir nor companion: far les can he haue anie superior to be preferred to him. ^a *with the marriage.*

4. Nevertheles, gif ane vassall halds lands of the King in frieburgage; and other lands of ane other over-lord, be Knights service: the King sould not be preferred to the other over-lord, be reason of the burgage, anent the warde, relieue, and mariage of the vassall. *Henr. 3. An. 9. c. 27. An. 51. c. 27.*

The secund Buke,

ANE GIFT OF VVARDE GIVEN BE THE King. CHAP. 45.

Glanvil.lib. 7.c. 10. **G**If the King giues the gift of ane warde to anie man: ane distinction is to be observed, quhither he hes giuen it be full richt and simpliciter, to the vse of the donatar. Or otherwise (*that he fall make compt thereof in the Checker*)

2. Gif it be giuen be full richt, the donatar to quhom the gift is made may giue kirkis, and dispone all other affairs of the warde, as his awin proper affairs.

THE VVARDE OF NATVRALL FVLLIS.

CHAP. 46.

Edward 1. An. 13 c. 14. **T**He warde and custodie of lands and tenements perteining to naturall fullis, be the law sould perteine to the King: swa that he may intromet with the profits and commodities thereof, bot sould not waste or destroy the samine.

Edward 2. An. 17.c.9.c.10.
Vid. Jac. 6.parl. 10.c.18.

2. And the King fall caule furnis to them, all things necessary, furth of the profits of their lands.

3. And in quhat maner soever it be, that these lands are haldin; the samine after the death of the naturall fule fall returne to his richteous heires: swa that induring the time of the fullishnes, they may not be analied be the fule.

THE CVSTODIE OF THE HEIRE OF ANE

Socco-m.in.

CHAP. 47.

THe heires of *Socco-men*, are in custodie and tutorie of their narrest kinsmen.

2. Swa that gif their heretage descends of their father side; the custodie of the heires person and bodie, fall perteine to his narrest kinsman, of his mothers side.

3. And gif the heretage descends of the mothers side; the custodie of the heire fall perteine to the narrest kinsman of the fathers side.

4. Because the custodie of the heire of ane *Socco-man*, or of anie other haldand his lands be blenshe ferme, sould never perteine to anie man, of quhom anie suspition is, that he clames anie richt or titill to his heretage be reaton of succession.

THE

THE VVARDE AND MARIAGE OF VVEN-
men Heretrices. CHAP. 48.

GIf ane woman happin to be heire to ane man, and is of
les age, she fall remaine in the warde of her over-lord, vn-
till she be of perfite age. And in this case, she is vnderstand to
be of perfite age, quhen she is fullie past fourtene zeares. *Infr. c. 708*

2. Quhen she or they (*gif there be mae nor ane*) are of perfite
age: the over-lord is oblitted to cause marie them all, ilke ane
with their awin portion of the heretage.

3. And gif they be of lawfull age, nevertheles they fall re-
maine in his warde and keiping, ay and quhill they be maried,
with his counsell and consent.

4. Because na woman being ane heretrice of land, may
be lawfullie maried, without consent of her over-lord.

5. And mairouer, gif anie man hes ane dochter, or mae
dochters: to be his heires; and in his awin lifetime, happins to
marie her or them, without consent of his over-lord; be the
consuetude of this Realme, justlie he tines and forfaults his he-
retage: swa that he fall not recover anie parte thereof, bot be the
mercie and gudewill of his over-lord.

6. And that for this cause, for seing the husband of the wo-
man is oblitted to make homage for that land perteing to his
wife, to the over-lord: the gudewill and consent of the over-
lord sould be required to the mariage; to the effect, that the over-
lord fall not be compelled to receaue homage for his heretage,
fra hisemie, or fra anie other vnworthie person.

7. But quhen ane man askis licence fra his over-lord, to ma-
rie his dochter being his heire, with anie man: the over-lord sould
giue his consent thereto, or then shaw ane reasonable cause quhy
he sould not consent.

8. Otherwise the woman may frelie marie, against the will
of the over-lord; with the will and consent of her father.

9. Conforme to this it is demanded, gif ane woman being
widow, haueand ane Dowrie, may marie ane man, without
consent of her vmquhile husbands heire, quha sould warand to
her the Dowrie: And gif she maries without his consent, fall she
tine her Dowrie?

10. It

The secund Buke,

10. It appearis in this case, she fall not tine her Dowrie : because her husband be law, and consuetude of this Realme, is not oblitted to make homage, to the said warant : bot onelie fidelitie with faith and trueth : for it may happin, that the woman may deceis before her husband, and then the Dowrie will returne to the warant. And swa the husband sould tine, and want the land: and gif he had made homage therefore, the homage sould ceise; the maker thereof being as zit liue and (*quhilk is not lawfull*)

Infr. c. 58. 5.

11. Bot nevertheles, it is of veritie, that the woman or widow may not marie without consent of the warant; or otherwise she tines and amittis her Dowrie.

12. Except the woman haue other land perteining to her, be reason of mariage, or as heretage : for then the consent of the chief over-lord, is sufficient.

13. And this is of veritie, anent Dowrie, not be reason of homage; bot of fidelitie, quhilk the husband is oblitted to make, as said is.

14. Gif the fie or propertie of the Dowrie, perteins to fundrie lords, it is sufficient to the woman, to haue the consent in her mariage, of the chief and eldest over-lord.

A NE HERETRICE OF VVARDE LANDS,
committand fornication, tines her heretage.

CHAP. 49.

Glanvil. lib. 7. c. 12.

WEmen being Heretrices and in warde, and custodie of their over-lords; gif they forfair or abuse their bodies in fornication, and are convict thereof; all they quha hes committed sic ane trespas, fall be disherissed; and their parts and portions of the heretage, fall accres and perteine to them, quha hes not trespassed.

2. And gif they all hes committed sic ane fault, all their heretage fall perteine to their over-lord, as his escheit.

Henr. 3. An. 9. c. 7.

Edward. 2. An. 17. c. 4.

3. Bot gif they haue bene anis married, and thereafter be deceis of their husbands are widowes; they are not vnderstand to be in the warde of their over-lords.

4. Albeit they sould seik their consent in their mariage, be the reason foresaid.

5. And they being widowes, they fall not throw their incontinencie

tinencie, tinc and forfault their heretage.

6. Because the common saying *Huredome takes not away the heretage*, is to be vnderstand of the mother, quha hes borne ane sonne, in lawfull mariage (*and thereafter is become widow*) for ane sonne is lawfull, quha is gotten in lawfull mariage. And therefore tines not the heretage, suppose his mother in her widowetie committ huredome.

*ANE BASTARD MAY NOT BE ANE
lawfull heire.* CHAP. 50.

A Ne Bastard may succed to na man as ane lawfull heire: *Glanvil. lib. 7. c. 15.*
Like as na man, not gotten in lawfull mariage, may be ane lawfull heire.

2. Sywa gif anie man as heire, clame anie heretage against ane other; and the other object to him, that he is not heire thereof, because he is not borne in lawfull mariage: that mute or pley fall cease, and receave na proces in the Kings court.

3. And command fall be giuen to the Bishop of that place, that he fall take inquisition of that mariage: and quhat he finds in that matter, he fall make it knawin to the King, or his Justitiars.

4. And this is the forme of the brieve drect be the King, to the Bishop. The King to the Bishop Greeting. Sic ane man M. compeirand before me and my Justitiar:; clames fra N. his brother, the fourt parte of ane sie, halden be knichts service (*be warde and relieue*) lyand in sic ane towne, as richteouslie pertaining to him: and quhereto the said M. hes na richt, as the said N. alledges. Because the said M. is gotten, and borne Bastard, before the mariage betwix his father and his mother. And because it pertains not to my court, to cognosce vpon bastardrie: I send them to zou, commandand zou, that in the Ecclesiasticall court, ze fall doe sa farre as concerns zour jurisdiction. And quhen the pley is ended before zou, ze fall be zour letters certifie me, quhat ze haue done thereanent.

*QVHAT BAIRNS OR CHILDREN ARE
lawfull.* CHAP. 51.

A Nent the lawfulness of children, ane question may be proponed, Gif ane barne is gotten and borne betwix ane man and

Glanvil. lib. 7. c. 15.
Henr. 3. An. 20. c. 9.

The secund Buke,

and ane woman, before lawfull mariage, betwixt them compleit: gif that bairne is lawfull or not, it being of veritie, that the father of the barne thereafter maries, and takes to his lawfull wife the mother of the samine barne?

*Be the practick
the contrare is
observed.*

2. Albeit the bairne gottin and borne, as said is, be the common civill law of the Romans, and be the Canon and pontificiall law, is lawfull: Nevertheles, conforme to the law of this Realme he may na waies be suffred or heard, to clame anie heretage as lawfull heire.

3. And gif question fall be, quhither he was gottin before or after the mariage compleit betwix his father and his mother; that fall be decided before the Judge Ecclesiasticall, as said is.

4. And quhat he decerns in that matter, he fall certifie the King and his Justitiar thereanent.

5. And conforme to the dome, and decreit given in his court be him: in the Kings court, the heretage fall be decerned to perteine to him, or not to perteine to him. Swa that in the Kings court, he fall eather tine or wone the heretage, quhilk is in controversie and clamed be him.

OF THE HEIRE OF ANE BASTARDE.

CHAP. 52.

*Glanvil. lib. 7. c.
16.*

ANc Bastarde may haue ane heire, lawfullie gottin of his awin bodie, with his wife in lawfull mariage.

2. Bot it may be demanded, gif ane man giues to anie Bastard, land for his service, or for anie other cause; and receaves homage therefore fra the Bastard, deceissand in saisning thereof, without heires lawfullie gottin of his awin bodie: Quha fall succeid be the law, to this Bastard? It is answered, That na man may succeid to him, bot ^a onelic the King be the reason foresaid.

*^a Al. the over-
lord.*

OF HIM QVHA DECEISSIS VNTESTAT.

CHAP. 53.

*Glanvil. lib. 7. c.
16.*

QVhen ane man deceissis yntestat; all his cattell and his gudes perteins to his Lord.

2. And gif he hes moe Lords nor ane, ilke ane of them fall haue sameikill, as is within his awin lordship and dominion.

OF

OF VSVRARS AND THEIR GVDES.

CHAP. 54.

ALl the gudes and geir perteing to ane ockerer, quhither he deceis testat or vntestat, pertains to the King.

2. Ane ockerer salang as he liues, may not be accused or convicted (be the King, for the paine of ane vsurarie pertains to the Kirk, induring his lifetime, and after his deceis, to the King)

3. Bot amongst the rest of the points of the Kings dittay, and inquisition, it vses to be inquired, and proven be threttie twa leill men lawfullie sworn of neighbours, that anie man vntill the time of his deceis, vsed and exerceid vsurie and ocker.

4. Quhilk being proven in judgement, all the moveabill gudes and cattell, quhilks pertained to the vsurer, quha deceissid fall be inbrocht to the Kings vse, in quhaiss possession ever they be found.

5. Als wa, be the lawes of this Realme, his heires fall be disheirissid, for the samine cause; and his heretage fall returne to the over-lord, or to the King.

6. It is to wit, that albeit ane man is ane vsurer at anie time of his life, and is publiklie defamed therefore in the countrie: zit gif he repent, and desistis before his deceis, to vse the samine crime: he, his heires, nor his gudes, fall not be judged conforme to the law of vsurers.

7. Swa of necessitie, it main be certaine that ane man, vsed the crime of ocker, or vsurie, vntill the time of his deceis: otherwise he after his deceis, his heire, nor his gudes, fall not be judged nor disposed, according to the law of ockerers.

OF ANE LAST HEIRE, AND TYNSELL
of heretage. CHAP. 55.

THe over-lords of ilke man, are their last heires (bot be common consuetude and vse, onely the King is last heire)

2. Therefore, gif anie deceissis without ane certaine heire, as sonne or dochter, or anie other heire, of quhom there is doubt, quhither he is narrest and richteous heire, or not: the over-lords of the fie and heretage, vses to intromet, and reteine the lands in their awin hands as escheit: quhaever are over-lords, the King, or anie other over-lord.

3. Gif

Glanvil. lib. 7. c.

16.

L. eccle. c. 25. 37

Deuter. c. 23. 12.

Proverbs. c. 28. 8

Ezech. c. 18. 8. c.

21. 12.

Exod. c. 22. 25.

Edward. 3. An. 15

c. 5. An. 11. c. 8.

Henr. 7. An. 3. c.

5. c. 6.

Henr. 8. An. 37.

c. 9.

Edward. 6. An. 5.

6. c. 23.

Glanvil. lib. 7. c.

17.

The secund Buke,

3. Gif anie man alledges him to be richteous heire of the lands, he may pley thereanent : gif he hes the gude will of the over-lord, or the Kings precept.

4. And gif he hes richt, he may pley the samine in judgement : and in the meane time the lands fall remaine in the hands of the over-lord.

5. Because quhen ever the over-lord hes just cause to doubt, quhither he quha clames the heretage, is richteous heire or not: he may posses the lands, ay and quhill that be knawin and decided.

6. The like is to be vnderstand, quhen ane doubtis quhither the heire is major or minor.

7. Bot in this case, there is ane difference. For in the first case, the heretage is vnderstand to perteine to the over-lord, as escheit. And in the other case, it perteins to him be reason of custodie.

8. Gif na man compeirs to aske the heretage, as heire, the samine fall remaine with the over-lord, perpetuallie as escheit: swa that he may dispone therevpon, at his awin pleasure, as his proper heretage.

Supr. c. 49.

Quon. Attach. c.

18. Stat. 2. Rob. 1.

c. 22.

9. Mairover, gif ane woman being heretrix of lands, haldin be service of warde and relicue: and being in the warde and custodie of her over-lord: happins to abuse and forfair her bodie (*be fornication*) her heretage, be reason of her trespas, fall perteine as escheit to her over-lord.

10. Gif anie man is convict of felonie, or confesses the samine in judgement; his lands fall perteine as escheit to his over-lord.

11. It is to be observed, that gif anie man is convict of felonie, or confesses the samine in judgement, and halds his lands in chief of the King; his lands and all his cattell and moveable gudes, quherever they may be found, fall be brocht in to the Kings vse, without anie recoverie thereof, be his heire.

12. Bot gif he halds his lands of ane other over-lord then the King, all his moveable fall perteine to the King, as escheit. And his lands sal remaine in the Kings hands, be the space of ane zeare and ane day.

13. And the zeare being bypast, the land fall returne to the over-lord, of quhais fie it is: bot the tries fall be pulled vp be the roote, and the houses fall be destroyed and callen downe (*to the perpetuall*

perpetuall shame and dishonour of the felon)

14. And generallic quhen ane man speiks or does anie thing in court, for the quhilk he is disheritted: his heretage vles to returne, as it cheit to his over-lord, of quhom it is halden in chicfe.

15. The trespas of the sonne or of the heire, fall not be ane caule of exheredation of the father, or of the brother, or of anie other persone, bot of himselfe. *Deuter c. 24. v. 16. 2. King. c. 24. v. 6. 2. Chronick. c. 23. v. 4. Quon. Attach. c. 98. c. 102.*

16. Mair over, gif anie man be condemned for thift, all his cattell and moueable gudes remains with the Schiref. Bot his lands, gif he anie hes, fall pertaine to his over-lord incontinent, not abiding zeare and day.

RESTITUTION OF FELONIS.

CHAP. 56.

QWhen ane man is made out-law, conforme to the law of the land; and thereafter be grace and benefite of the King, is restored to peace: be reason of his restitution, he may not recover the heretage quhilk he had, or quhilk micht haue pertained to his heires, fra his over-lord; bot be his gude will and pleasure: or except he satisfie the over-lord therefore. *Glanvil. lib. 7. c. 17. Lib. 4. c. 35. 1ac. 6. parl. 8. c. 136. parl. 12. c. 154. parl. 9. c. 3. parl. 14. c. 201.*

2. Becaus the king may remit and forgiue the crime or the rebellion, bot he may not discharge or tak away other mens richts.

LANDS GIVEN IN MARITAGE VVITH service, or without service. CHAP. 57.

Maritage (*lands giuen in name of tocher*) is frie (*fra service*) or is subiect to service.

2. Frie maritage is, quhen ane frie man giues ane parte or portion of his lands, with ane woman in tocher gude: swa that the samme fall be frie fra all service, to be done be him, or be his heires, to his over-lord.

3. And that land fall remaine in that friedome vntill his thrid heire.

4. And in the meane time, his heires fall not be oblissed to make anie homage therefore.

5. After the thrid heire, that land fall make service vsed and wont; and homage fall be vsed therefore.

6. And gif it be ane parte of lands halden be knichts service, conforme to the quantitie of the land, service sal be made therefore

H

7. Some

The secund Buke,

7. Sometime land is given in maritage (*and tocher*) with the reservation and retention of the service to the over-lord.

8. And then the husband and his heires, are obliged to doe the service without anie homage, vntill the thrid heire.

9. And the thrid heire shall make homage therefore, warde and releiue, and all his heires after him.

10. And ane other fidelitie, be making of ane eath and faith, shall be giuen and made be the woman, and her heires, in the samine forme, and words as homage should be made.

THE COVRTESIE OF SCOTLAND.

CHAP. 58.

*Glanvil. lib. 7. c. 18.
Edward. 1. An. 6. c. 3.*

QWhen ane man receaues with his wife (*being ane heretrice*) lands in name of maritage, and begets vpon her ane heire *sonne or dochter* heard cry and and greit and within foure walles of the house; and the wife happen to deceis before the man, suppose the bairne liue, or deceis; the land and heretage quhilk pertained to the wife, shall remaine and be possessed be the husband induring his lifetime.

2. And after the deceis of the husband; the land shall returne to the heire, gotten vpon the woman, gif he be liue and: or to the giuer thereof, and his heires (*gif the bairne is deceissed*)

3. Bot gif the husband beget na bairns with his wife; incontinent after her death, the land shall returne to the giuer and his heires, and shall not pertaine to the husband for his lifetime.

4. And this is the cause that na homage vses to be receaved for sic land.

Supr. c. 48. 10.

5. For gif homage happins to be made and receaved for sic land given in name of tocher, or any other maner of way, the samine wald never returne to the giuer or his heirs, as is before said.

6. Gif ane woman being ane heretrice of land, maries ane secund husband: the samine is to be vnderstand of him, as is said before of the first husband; albeit the bairne liue or die (*swa that it be borne quick and liue and*)

QUHA IS IUDGE ANENT LANDS GIVEN in name of maritage.

CHAP. 59.

QWhen ane man askis or craues lands giuen to him with his wife, or quhen the wife askis the samine, or her heire; ane distinction is to be observed, quhither the land is asked fra the giuer thereof

thereof, or fra his heire, or fra ane stranger, or thrid persone.

2. Gif it be asked fra the giver, or his heire; it is in the will and election of the persewer, quhither he will pley before the Judge ecclesiasticall or civill.

3. For the question of tocher pertains to the ecclesiasticall judge; gif it please the persewer, to persew before him: be reason of mutuall affidation and treuth quhilk vles to be made, quhen ane man promisis to take ane woman to be his wife; and tocher is promised to him, in name of the woman.

4. Because that mure or pley, sall not be persewed, or defended in the Kings court: bot in the ecclesiasticall court, albeit the land quhilk is in controversie, be temporall; it being of veritie, that the samine is as asked and craved in name of tocher.

5. Gif the land is asked and craved fra ane stranger; that pley may receaue proces, before the civill judge, in the samine forme and order of proces vfed and observed anent temporall lands.

6. Provyding, that there be na proces, except the warant, gif anie is alledged, be also summoned and called, as sould be done in the action of dowrie, as said is. *Lib. 2. c. 16.*

BE *QVHOM*, AND AT *QVHAT TIME* HO-
mage sould be made. *CHAP. 60.*

HEEirafter followes to speake of making of homage, and receiving of releives. *Glanvil. lib. 9. c. 1.*

2. Quhen the father or predicessor of anie man deceissis; the over-lord of the land or heretage, at the beginning sould receaue the homage of the richteous heire, quhither the heire is of les age or of perfite age; swa that he be ane heire male. *Henr. 3. An. 9. c. 16.*

3. Be the law, wemen being heretresses, sould make na homage, albeit sometime they make fidelitie to their over-lords.

4. And gif they be married, their husbands sould make homage to their over-lords, for their lands: swa that the lands are sic, for the quhilk homage sould be made.

5. Gif the heire be ane male, and minor; the over-lord sould not haue his warde or custodie of him, or of his lands, vntil he receaue his homage of his lands, quhereof he clames the service or homage. *Haldin be warde and releive.*

6. Because it is generallie trew, that the over-lord may not aske nor craue service, or releive fra the heire, being major or mi-

The second Buke,

nor, vntill he haue receaued homage for the lands, for the quhilk he clames homage or service,

THE HOMAGE OF ANE VASSALL HAVE- and moe over-lords nor ane

CHAP. 61.

Glanvil. lib. 9. c.
1.

ANe vassall may make fundrie homages, to fundrie over-lords, haue and fundrie lands haldin of them in cheif.

2. Bot ane of the saids homages, is principall, and sould be made with the allegiance (*ligeance*) of the maker thereof, quhilk sould be made to the over-lord, of quhom the chief and principal (*the first and eldest*) tenement of land is haldin.

3. And therefore gif ane vassall hes made diuers homages, to diuers over-lords, for diuers lands; and ane strife and debate is amangs them: the vassall sould goe and passe in proper persone with the principall and eldest over-lord, desire and him to doe the samine against his other over-lord.

4. Saife and alwise the service to the other over-lord, for the lands haldin of him.

THE FORME OF HOMAGE WITHOVT AL- legeance

CHAP. 62.

Glanvil. lib. 9. c.
1.
Edward. 2. An.
17.
In the statut of
doeing of homage

HOmage suld be made in this maner, that is, the maker thereof, sall become his over-lords man, and sall be leill and trew to him, for the lands, for the quhilk he maks the homage, and sal in all things saife and keip his warldlie honour: saif and his faith, quhilk he awe to the king and his heires.

IN WHAT THINGS ANE VASSALL IS bound to his over-lord.

CHAP. 63.

Glanvil. lib. 9. c.
1.

IT is manifest, be the premissis; that ane vassall may not trouble be invasion his over-lord; without the violation and breaking of his faith and his homage.

2. Except in his awin defence, or quhen he passis in weirfair with the King at his command, against his over-lord.

3. And be the law generallic, the vassall may doe nathing to the disherissing of his over-lord, to the hurt of his bodie, or to his shame and dishonor (*and gif he does anie thing in the contrare, he violats and breaks his faith of homage*)

4. Swa it is manifest, that gif the vassall does anie thing, to the exheredation of his over-lord, and is convict thereof, he and his heires sall forfait and tine the lands halden of that over-lord.

5. Like

5. Like as it is to be said : Gif the vassall puts violent hands in his over-lord, and hurts him, or does to him anie great injurie, and the same is proven against him in judgement.

6. Or gif the vassall in the Kings court, disclames his over-lord, that is, denyes him to be his over-lord of the lands quhilk he holds of him, in chief. And that alswa, sould be verified against him in court.

7. Bot it is ane question, quhither the vassall is oblitted to defend himselfe in thir actions and pleyes, concerning the tinsell of his heretage, in his over-lords court, against his over-lord: or gif the over-lord may compell him be the authoritie and consideration of his awin court, without anie precept of the King or his Justitiar?

8. Surelie, be the law ane over-lord be command of his awin court, may compell and distrenzie his vassall, to compeir before him in the causes foresaid.

9. And gif he in his over-lords court, purges and quitis not himselfe against his over-lord: be his awin aeth, and be the oath of the other thrie men, make and faith with him, he fall be in his over-lords will and mercie, anent all the lands quhilk he holds of him.

10. *Item*, it may be demanded, quhither the over-lord may distrenzie his vassall to compeir in his court, to answer anent the service, quhilk his over-lord compleins, that he refuses to doe to him: or concerning the arrierage or rest of his service, not as zit made or done.

11. And trewlie, it is lesome to the over-lord, to doe the same, without the Kings or his Justitiars precept.

12. This matter, may be decided be ane assise, or be singulare battell, betwix the over-lord, and his vassall, be anie of his peirs, quha will be witnes thereto. As he quha saw that vassall, or his predecessors, make the same service, for the same lands: to the same over-lord, or to his predecessors, and offers him to distrenzie, and proue the same be battell.

13. And gif the vassall is convict therof; be the law, he fall be disheritted of all the lands quhilk he holds of that over-lord.

14. Gif ane over-lord may not compell his vassall to doe his service: in this case, as the last refuge, it fall be necessare to haue recourse to the Kings court.

The second Buke,

15. Mairover, the vassall gif he please, may raise the Kings brieve of peace, against his over-lord, that he fall not be vnjustlie troubled or molested anent his service be him. And gif the over-lord alledge, that he craues onclie na other service, bot vse and wont; the vassall may defend himselfe thereanent, be ane great assise: Or gif he pleases, the matter may be decided be singulare battell.

QVHA SOVLD MAKE HOMAGE, AND quba not. CHAP. 64.

*Glanvil. lib. 9. c.
1. an fr.*

HOmage may be made be anie frie man being male, aswell be him quha is minor, within lawfull age; as major and of perfite age; or be him quha is ane Clerk, or ane laik man.

2. Bot consecrat Bishops, are not oblidid to make homage to the King, for lands and baronies giuen to them, in name of Almes, bot onely fidelitie.

3. Bot elected Bishops before their consecration, vses to make their homage.

FOR QVHAT LANDS OR OTHER THINGS homage sould be made. CHAP. 65.

Glanvil. lib. 9. c.

HOmage sould be made for lands, frie tenements onely for service and rents consistand in silver, and for other things.

2.

Mar. parl. 6. c. 43

Iac. 6. parl. 10. c.

12.

2. Bot homage is not made to anie man, for his band of mentenance or for his defence, bot onely to the King.

3. Homage sould not be made for all lands; as for Dowries, frie maritages, or lands haldin be the zonger sisters of the eldest sister, vntill the thrid heire: Nor for lands giuen in name of frie almes: Nor for anie tenement, anie way in name of marriage or tocher, in sa far as concerns the person of the womans husband, to quhom the marriage pertains.

TO QVHOM HOMAGE SOVLD BE MADE. CHAP. 66.

Glanvil. lib. 9. c.

3.

HOmage sould be made to ane frie person, male or samale, major or minor, clerk or laik.

2. It is to wit, gif anie man makes homage to ane woman,
not

not cled with ane husband, for land halden of her: and she hap-
pin to marie thereafter, he quha made the homage fall make it
over againe, for that samine land to her husband.

A NE MUTVALL CONJVNCTION SOVLD
be, betwix the over-lord, and his vassallis.

Glanvill. lib. 9. c.

4.

CHAP. 67.

THe conjunction or band of fidelitie, be reason of superio-
ritie and homage, sould be mutuall betwix the over-lord,
and the vassall: swa that how farre the vassall is oblitted to his
over-lord, be reason of homage: the over-lord is als far oblitted
to him, be reason of superioritie, reverence onely excepted (*quhilk*
sould be done to the over-lord be his vassall)

2. Gif ane man giues lands to ane other for his homage and
service; the quhilk land ane thrid person evicts, and recovers in
judgement: the giver thereof fall be oblitted for warandice of
the samine, or for ane competent excambion, or exchange equi-
valent to the lands evicted.

3. Bot it is otherwise to be vnderstand of him, quha hes
lands as frie heretage, for the quhilk he is not oblitted to make
homage: for albeit he tene that land, the over-lord giver thereof,
is not oblitted to warand the samine.

THE HOMAGE AND RELEIF OF A NE
heire being minor.

CHAP. 68.

Gif the father or predicessor of anie man deceisles, leaue and
behinde him ane heire, quha is within age, and minor; the
over-lord hes na richt to the warde, or keiping of the heire, or
his heretage, vntill he first accept and receaue his homage.

Glanvill. lib. 9. c.

Henr. 3. An. 9.

c. 3.

Supr. c. 60. 6.

2. And his homage being receaved; the heire and his here-
tage fall remaine in the warde of his over-lord, in sic forme as is
declared of before; ay and quhill the heire be of perfite age. And
in this case, he is of perfite age, quhen he is passed twentie ane
zeares compleit.

Supr. c. 42. c. 48

3. Last, the heire being come to perfite age, and his heretage
restored to him, be his over-lords he is frie fra payment of anie
releif: because the over-lord, after the ischue or end of the warde,
restored his heretage to him.

FOR

The secund Buke,

FOR WHAT CAUSIS THE RECEAVING
of homage may be delayed. CHAP. 69.

THe over-lord for ane reasonable cause, may refuse or delay the receaving of the homage of his vassall.

2. As gif anie other man then he quha alledges himselfe to be richteous heire, clames richt to the heretage; sa lang as the pley depends betwix them, the over-lord sould not receave the homage.

3. Or gif the over-lord alledges that he hes richt, to hald and reteine the heretage in his awin hand; he may put himself to ane gude assise, quhilk of them, that is, the over-lord or the vassall, hes best richt thereto.

4. Gif the pley happins to be betwix them, the over-lord fall haue the Kings brieve, direct to his immediat over-lord, of quhom he halds the lands controverted in chief.

5. Gif the vassall will not doe to his over-lord, that quhilk he sould doe; and the over-lord is not of power to compell him to compeir in his court, before him: he may raise the Schirefs brieve for his helpe. And gif the over-lord proves his cause against him, he fall obtaine his petition: and the defender fall be in the mercie of the Schiref.

THE RELEASE OF ANE WOMAN BEING
ane heretrice. CHAP. 70.

Supr. c. 48.

ANe woman being ane heretrice to anie man, quhither she be of lawfull age, or within age, she is in the warde and custodie of her over-lord, ay and quhill she be married with his consent.

2. Gif she being of les age, falles in the warde of her over-lord, and within the samine age, is married with his consent; her land fall be frie and quite fra anie relieue, induring her lifetime, and her husbands.

3. And gif she is of perfite age, and nevertheles remains in the warde of her overlord, vntill she be married: Nevertheles, the the husband before the compleiting of the mariage, fall pay the releive.

4. The husband of the woman, makand payment of the releif, fall therebe relieue and make frie himselfe and his wife, induring

during their lifestimes, from all farther payment of the releive, for that heretage.

5. And swa, neither the secund husband, after deceis of the first; nor the woman, after the deceis of her first husband; nor the first husband after deceis of his wife, fall be compelled to pay ane other releive for that land.

6. Nevertheles, gif ane man recovers and obtains in court be agreement anie land fra ane other, quha hes alreadie paied ane releive to the over-lord, he fall pay ane other releive for the same land.

THE RELEIVE OF ANE HEIRE BEING
of perfite age. CHAP. 71.

A Ne heire male of perfite age, may enter to his lands without the consent of his over-lord, as said is, and may reteine and keip the possession thereof; swa that he offer to him before honest men, his homage and his honest releive. *Glanvil. lib. 9. c. 4. Supr. c. 40. Henr. 3. An 9. c. 2. Edward. 2. An. 17. c. 13*

2. Conforme to the consuetude of the Realme, ane reasonable releive of ane knights fee, is ane hundreth schillings.

3. Of ane Soccage, the Releive is equivalent, to ane zeares rent thereof.

4. Of Baroneis there is na thing certanlie constitute, for the chief barons vsis to satisfie the King, for their releives, at his will and pleasure. *Edward. 1. An. 18. c.*

5. The like is to be vnderstand of lands halden be Serjantie.

OF THE REFVSING OF THE RELEIVE.

CHAP. 72.

G If the over-lord refuse to receaue the reasonable releive for the land; the same fall be saiflie keiped, and sundrie times fall be offred to him before honest men. *Glanvil. lib. 9. c. 4. in fin. c. 6.*

2. And gif he will na way receaue the same, the heire fall complene to the King, or to his Justitiar, and fall haue ane brieve direct to the Schiref.

3. The delayes and distresses being done against the over-lord, be reason of his absence: At the last, gif he compeirs in court, he will deny the persewer to be the richt heire; or he will confes, or he will deny that he offred him the releive.

4. Gif

The secund Buke,

4. Gif he confessis all, instantlie he will receaue the releiue, or will grant to receaue the samine at ane certaine day.

5. Gif he denyes that he offered to him the releiue; it is alike, as gif he denyed him *simpliciter* to be heire.

6. Gif the heire is saised, he may tarie and suffer patientlie, vntill it please his over-lord to receaue his releiue.

7. And gif he is not saised; he may haue ane allise of mortancestrie against his over-lord.

The like is to be vnderstand, quhen the over-lord refuses to receaue homage of his vassall.

8. The heire is not oblitted to pay his releiue to his over-lord before the over-lord receaue his homage fra him.

OF HELPS AND SVBSIDIES ASKED BE the Lord fra his men. CHAP. 73.

Glanvil. lib. 9. c. 8.
Edward. 1. An. 3. c. 35.
Stat. 2. Rob. 1. c. 18.
After that the over-lord and his vassallis, are agreed anent the giuing and receaving of the reasonable releiue: The heire may aske fra his men reasonable helpe and aide: And that moderatlie, conforme to their faculties, and the quantitie of their lands, that they be not over-meikill hurt and grieved.

2. There is alsua other cases, in the quhilk it is lesome to the lord to seik the like help fra his men, in maner foresaid. As quhen his sonne and heire is to be made knicht, or quhen he is to giue his eldest dochter in mariage.

3. Bot ane question is, gif the Lord may seik fra his men or tenents the like help, for the mainteining of weir (or *deadlie fead*) quhilk he hes with ane other (of his neighbours) or for the mariage of after-borne dochters?

4. Some men thinks, that the over-lord may not compell or distrenzie his men or tenents to this effect: bot as they please, to doe of their awin frie will.

5. Nevertheles, he may distrenzie them according to the reasonable custome of his court, without the Kings precept; and poynde their cattell, and moveable gudes, apprehended within their lands, for making of payment to him of sic helps.

7. Therefore, gif the Lord may take ane distres fra his tenents, for sic helps, and subsideis; meikill mair, he may lesomelie distrenzie them, for the releiue and service aucht to him for his lands.

OF PURPRESTURE.

CHAP. 74.

Purpresture is, quhen ane man occupies vnjustlie anie thing against the King, as in the Kings domain (*and propertie*) or in stoppin the Kings publick wayis, or passages, as in waters turned fra the richt course.

Glanvil. lib. 9. c.

11

Edward. 1. Ann. 1.

c. 4. in statuto de bigamis.

2. Or quhen anie man within the Kings burgh, occupies anie thing, be bigging vpon the Kings streit or callay.

3. And shortly, als oft as anie thing is occupied, and wrangoullie possesed, to the hurt of the Kings propertie, or of the kings streit, or of the Kings citie and burgh: that mure or pley shuld pertene to the Kings court.

4. And inquisition anent this purpresture is taken, before the Justitiar in his heed court.

5. And he quha is convict thereof, fall remaine in the Kings mercie, anent all the lands halden of him in chief, and fall restore all that quhilk he hes occupied.

6. And gif he is convict to haue wrangoullie occupied anie thing, be bigging vpon the Kings streit, within the Kings burgh; all quhilk is bigged, fall pertene to the King: it being verified, that the samine is bigged vpon the Kings terrourie. And mair-over, the bigger thereof fall remaine in the Kings mercie.

7. In this kinde of purpresture committed in the Kings burgh, the Kings mercie is vnderstand to be, that the man (*alleged committer of the purpresture*) fall be amerced be the oath of leill men and neighbours, sa far as he fall not tine or lose anie part of his heretage.

8. Quhen ane man commits purpresture against ane other then the king, he commits the samine against his awin over-lord, or against ane other man. And not within the assise (*that is within the time, within the quhilk sic action shuld be persewed, or else to be halden as prescribed*)

Iac. 3. parl. 10. c.

79.

Read the latin annotations

9. Gif it is against his overlord, he quha hes made the wrangous occupation, fall be distrenzied to compeir in the court of his over-lord, to redres that quhilk is done: speciallie, gif he hes other lands halden of that over-lord (*quhilk may be distrenzied, gif he compeirs not, or may be forfaulted*)

10. And gif he happins to be convict thereof in his over-lords

The secund Buke,

lordscourt, he fall tinc and forfault the lands quhilks he halds of him.

11. Bot gif he hes na other heretage halden of that over-lord, the over-lord fall plead him in the court of his awin over-lord, of quhom he halds his lands immediatlie, be the brieve of richt.

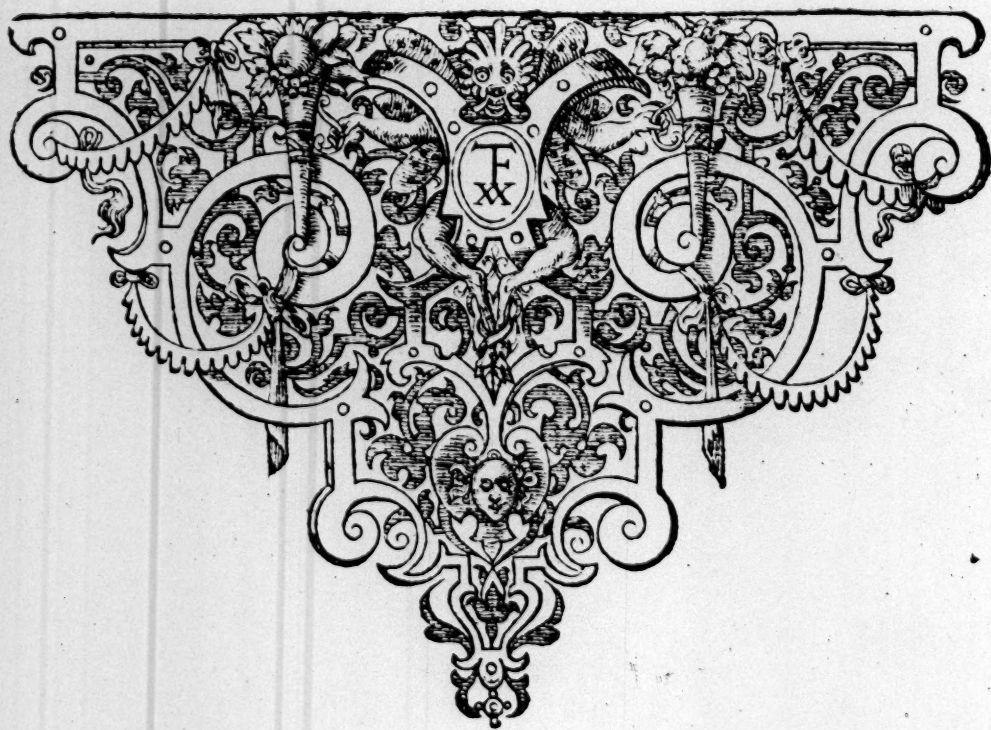
12. Siclike, gif anie man occupies anie thing contrare ane o-ther then his over-lord, and not within lawfull time, he fall pley be the brieve of richt.

13. And gif it be within the assise (*lawfull time swa that the action of novell dissaisne is not prescribed*) the recognition of novell ditlaine fall haue place for recovering of saisinge, as fall be said hereafter.

Lib. 3. c. vii.

14. Quhen the meths and marches of lands (*betwix neighbours*) are invaded, and be occupation exceided; in that case, at the instance of anie of the neighbours, complenand thereanent in court, command fall be given to the Schiref, to cause the meths and marches to be visied be faithfull neighbours: and conforme to their verdit and deliverance to be keiped, as they sould be.

THE



IN MY DEFENCE

GOD ME DEFEND.



THE THRID BVKE. OF THE DEBTS OF LAIK MEN.

SINDRIE CAUSES OF DEBT, AND FIRST
of ane thing, lent and borrowed, and of pledges.

CHAP. I.



HE MVTE OR PLEY OF
debts of laik men, perteines to the *Glanvil. lib. 10.*
kings court, and his dignitie. *c. i.*

2. Quhen ane man complains to
the Kings court, for debt awand to him
him, quhat forme of proces sall bev-
fed, anent the absence of baith the par-
ties, or the defaults, before the entres
of the pley: It is at lenth spoken of
before. *Lib 1. c. 7. c. 8.*

3. Quhen they baith compeir in court; the persewer may
craue his debt, for divers and sundrie causes. For debt may be
aweand, be borrowing and lenning, or be buying and selling; or
be reason of ane lenne, or be location, and conduction (*quhen ane
thing is set for byre and profite*) or as given to ane man in keiping
I and

The thrid Buke,

and custodie, or be anie other lawfull cause of debt.

Deuter. c. 15. 1.

4. Be reason of borrowing, ane debt is aweand; quhen ane man lennes to ane other, sic ane thing, quhilk consistes in number (*as sheip, nolt, or silver*) or in wecht (*as things quhilk are ponderat and weyed*) or in measure (*as wine, victuall*)

Luk. 6. c. 54.

5. Quhen ane man lennes sic geir to ane other: gif he receaves back againe mair nor he gaue; he commits vsurie and ocker. And gif he vse and exerce that crime vntill the time of his deceis: he fall be condemned be the law, as ane vsurer, as said is.

Lib. 2. c. 54.

6. Quhen ane thing is lent and borrowed; that vses to be done, sometime be finding of pledges (*borghs, cautioners*) sometime be given and receaving of ane wad: some time, be band and obligation made be faith & promeis, some time be writ, and some time be securitie of sundrie witnes.

Glanvil. Lib. 10.

12 in fin.

Quon. Attach. c.

17. Stat. 2. Rob. 1

c. 10.

Henr. 3. An. 9. c.

5. c. 8.

7. Quhen ane thing is lent and borrowed be the securitie of pledges onely; gif the principall debtour failies, and hes not guds of his awin, quherewith he may pay the debt; in that case, recourse fall be had to the pledges, and against them.

8. The pledges compeir and in court, either they confes their borrowgange (*cautionarie*) or they deny the samme,

9. Gif they confes, they fall satisfie the credirour, at sic competent termes, as fall be assigned to them in court. Or else they sal proue lawfullie themselves, to be quite and frie of that borrowgange, be payment of the debt, or be some other lawfull way. And gif they doe neither the ane nor the other, the creditour fall persew them in forme of law.

10. Gif there be moe pledges nor ane, ilk ane of them is obliffed for the hail debt: except provision was made otherwise, quhen they become obliffed as pledges: And swa anie ane of them may be compelled to pay all the hail debt.

11. And gif there be moe pledges, and anie ane or moe of them, hes not gudes and geir, as their awin, to pay the debt: the burding of the payment fall be laid vpon the rest; either in the hail debt, or in sa far as the others did failzie.

12. Bot quhen ane debtour findes manie pledges, ilke ane of them, obliffed for ane certaine parte of the debt, quhat ever happens to some of them, the rest fall not be bound to answeire, bot onely for their awin parte.

3. Sometime, ane contention or pley may arise, betwix the creditour

creditor and the pledges; gif anie of the pledges, alledge him to be oblissed for the debtour, in ane les summe, then the creditor craues fra him: and contrariwise, the creditor answers, that he is oblissed in ane greater summe.

14. Sa quhen ilk ane of the pledges is oblissed for ane certain part of the debt the creditor wil be compelled be the law to perswade him, quha alledges him to be awand les, nor is craved fra him.

15. Gif some of them, confes that they are pledges for all the debt; and some others for ane parte thereof: it is necessare to them quha are bound for the haill debt to pleade against him, quha confessis him to be pledge for the les summe, the forme quhereof fall be herefter declared. *Quon. Attach. c. 51. Stat. 2. Rob. 1. c. 10. Glanvil. lib. 10.*

16. It is to wit, that conforme to the lawes of this Realme, that ane pledge confessand himself to be pledge, or lawfullie proven to be pledge for the principal debtour, fall be conveyned and charged, as the principal debtor, the terme of paiment being past. *c. 3.*

17. The debt being paid be the pledges, they may recover the samine, fra the principall debtour, gif he is responsabill; & hes gudes and geir of his awin, to satisfie the samine, conforme to the common forme of proces anent debts, as fall be hereafter said.

18. Bot it is to wit, that gif anie man becomes oblissed for ane other, as pledge; that he fall stand to richt in anie action or pley: and be reason of default made be him, for quhom he is pledge, he fall in the kings mercie, and swa is compelled to make paiment of the debt: he may justlie recover or repete that quhilk he paid fra the debtour for quhom he was pledge or borgh, that he sould stand to richt *(to answer as law will)*

19. Quha ever is borgh for ane other, to stand to richt in anie action perteing to the kings mercie: as anent the breaking of the kings peace, or anie other; gif he can not produce him for quhom he is pledge; be reason of his borrowange, he fall fall in the kings mercie *(quhilk is declared of before)* and thereby fall be quite and frie of his borrowange.

20. Gif the pledge compeir in judgement, and deny that he is pledge or borgh, and there be moe pledges nor ane: Either all denyes their borrowange; and in that case the pley sal be betwix the creditor and the saids pledges only. *Lib. 2. c. ult.*

21. Or some of them denyes, and others confessis; and then the action or pley sal be betwix the pleges denyand, and the pledges con-

The thrid Buke,

ges confelland, as said is.

22. Bot betwix quhatsoever parties the pley fall be: it is demanded quhat kinde of probation is requyred hereanent? quither be singulare battell, or otherwise? or quither the pledges fall be heard to deny their borrow gange be the oath of so many as the court fall requyre?

23. Some men sayes, that the creditour may proue the borrow gange, be his awin oath, and be the oath of lawfull witnes, against the pledge.

24. Except the pledge will releiue him of his oath; as quhen ane persewer makes faith vpon his persute, quhilk sould be done before anie acquittance is made be the defender: And swa in this case, the controversie may be decydid be singulare battell.

DEBTS CONTRACTED BE GIVING OF ane wad. CHAP. 2.

*Glanvil. lib. 10
c. 6.*

Lib. 2. c. 65.

Exod. c. 22. 26.

Deuter. c. 24. 6.

SOmethings are borrowed and lent, be giving and receaving of ane wad. And that is done some time, be laying and giving in wad, cattell or moveable gudes.

2. And some time be immoveable gudes, as lands tenements, rents, consistand in money, or in other things.

3. *Item*, quhen it is accorded betwix the creditour and the debtour, anent the wad, quhat kinde of thing that ever it be; either the debtour delivers the wad, to the creditour in his possession, after he hes received fra him the thing borrowed; or he hes not delivered the wad to the creditour.

4. *Item*, ane thing is laid in wad to ane certaine day, or to na certaine day.

5. *Item*, ane thing is laid in wad, quhilk is called ane deid wad, or not. Ane deid wad, is swa called, quhereof the frutes or rents, taken vp in the meane tyme (*of the wadset*) payes not, nor is allowed in the summe, in all, nor in parte, for the quhilk the wad was given.

OF ANE MOVEABLE THING LAID IN wad to ane certaine day. CHAP. 3.

*Glanvil. lib. 10.
c. 6.*

QWhen ane moveable thing is laid in wad, and is delivered in the possession of the creditour, to ane certaine day: he sould keip it saif and sure; swa that it be not deteriorat, or made
war in

war in his default, be vsing or weiring of the famine.

2. Otherwise, gif it is deteriorat in his possession, before the day, in his default, that salbe compted to him, according to the valour of the skaith and deterioration.

3. And gif the wad be sic a thing, quhilk requires necessare coist, and necessare expensis, or pasturage (*as horse and nolt*) it is necessare to keepe and obserue the forme and maner agreed betwix the creditour and the debtour, quhen the thing was laid in wad.

4. And gif anie thing is wadset to ane certaine day, convention is made betwix the creditour and the debtour; that gif the debtour redeme not the wad before the day, that the famine fall remaine with the creditour: swa that he may dispone therevpon as his awin proper gudes and geir: Or na sic convention is made betwix them.

5. The first convention betwix them sould be keiped and observed.

6. Concerning the secund case, the day being bygane, and the debtour delay to pay the debt: the creditour fall complaine thereanent, and the debtour fall be summoned to compeir in judgement to answer thereto.

7. Gif he compeirs in court, and confessis the wadset: command fall be given to him, to louse and redeme the wad at ane certaine day.

8. The quhilk gif he does not, licence fall be given to the creditor, to dispone vpon the wad, as his awin proper geir.

9. Bot gif the debtour denyes the wadset; then he alledges that thing to pertaine to him properlie as his awin: and for some cause to haue passed forth of his possession, and to haue come to the possession of ane other man, be reason of ane lenne or given to ane other man, in keiping, or be anie other lawfull cause.

10. Or in judgement he confessis that thing, not to be his awin and then it fall be adjudged to the creditour, to dispone therevpon, as he please.

11. Gif he alledges the thing to be his awin, and denyes baith the debt and the wad: the creditour sould proue against him, that he lent to him als meikill as is contained in his clame: and that thing to haue bene wadset speceallie, to him. Quhat maner of probation fall be vsed in this case, may be easilie vnderstand

The thrid Buke,

be that, quhilk is before said, anent pledges and burghs denyand
their borrow gange.

OF ANE THING VVADSET VVITHOVT

ane certaine day.

CHAP. 4.

G'auil. lib. 10.

c. 8.

Iac. 6. par. 11. c. 52

THe debt may not be asked or craved before the terme of
payment.

2. Bot gif ane thing is wadsett, without ane certaine day; the
creditour may craue his debt at anie time he plecte.

3. The debt being payed be the debtour: the creditour suld
restore the wad, without anie deterioration or hurt. And gif the
wad is made worse, or deteriorat; or be anie chance is tuit in the
possession of the creditour, he is not releived at the hands of the
debtour: Because he is precesslie obligit to restore the wad, or to
make satisfaction therefore, or to tyme the debt.

4. Quhen convention is made betwix the creditour and the
debtour, anent anie thing wadsett; and the wad is not given
nor delivered be the debtour: how sall the creditour be helped
in this case? speciallie, seing ane thing may be wadsett and de-
livered to sundrie creditours: first to ane, and thereafter to ane
other.

G'auil. lib. 10.

c. 8.

18.

5. It is wit, that anent this question, the Kings court *uses*
not to cognosce nor warant sic priuat pactions, anent things to
be given, or receaved in wad, made in other courts, nor his awin
court, or otherwise (*bot leaves them to be decided in the courtis*) of
Schirfs or Barones. And swa the kings court gives na answer,
anent the richt and priviledge of divers and sundrie creditours,
quhereof some are prior, and others are posterior.

OF THINGS IMMOVEABILL, VVADSET.

CHAP. 5.

G'auil. lib. 10.

c. 8.

QWhen ane thing immoveable, is wadsett to ane certaine
day, quhereof laising is given to the creditour: It is accor-
ded betwix the debtour and the creditour, that the rents and fruts
of the wad, taken vp be the creditour, in the meane tyme of the
wadset, sall be compted and allowed in the principall summe,
delivered be the creditour to the debtour. Or else, na sic paction
nor convention is made betwix them.

2. The first paction is lesome, and honest: bot the secund is
vnlesome

vnlesome and vnhoneft.

3. And is called ane deid wad; And is forbidin in the Kings court to be made or vsed. Because it is esteemed to be ane kinde of ocker or vsurie. And gif anie man deceillis haue and sic ane wad, and the samine be proven after his deceis, his gudes salbe torfaul-
ted and dispo ned as the gudes and geir of ane ockerer.

Supr. c. 2. 5. h. lib.

Lib. 2. c. 54.

4. All other things touching the wad-set of things immoue-
able, sall be keiped and observed, as is before said, of things
moveable wadsett.

THE MALITIOUS DETENTION OF THE
wad, and the redemption thereof. CHAP. 6.

IT is to wit, that after the debtour hes payed the debt, or hes
lawfullie offred payment thereof; and the creditour thereafter
deteine and withald the debtours wad: the debtour complein and
sall raise the brieve of richt.

Glinvil. lib. 10.

c. 9.

L. 5. lurg. c. 84.

Iac. 2. parl. 8. c. 38

Isc. 3. parl. 3. c.

19. parl. 5. c. 27.

M. r. parl. 6. c.

30.

Iac. 6. parl. 12. c.

135. c. 138. parl.

15. c. 247.

2. The Creditour being summoned be the brieve, and com-
peir and in court, either conf. illis the lands to be wadset to him,
or alledges the samine to pertaine to him, in fie and heretage
(irredimable)

3. In the first case, he scould restore the wad, or else shaw ane
reasonable cause, qu y he scould not doe the samine.

4. In the secund case, baith the creditour & the debtour com-
peir and; it sall passe to the knowledge of ane allise, quither the
creditour halds that land, as his fie (without reversion) or as wad-
set to him. Or quither his father, or anie other his predicessour
was vest and sailed therein, as fie or wadset, the time of their
deceis. And conforme thereto, objection may be made to him,
quha alledges his fathers tasing. And swa the recognition may
varie in fundrie wayes, according to the forme of the clame and
the answer.

5. And gif neither the creditour nor the debtour craues re-
cognition to be taken be the allise; the pley may proccid anent
the richt of the lands.

OF ANE THING BORROWED AND LENT
be ane promise. CHAP. 7.

AT the terme of comperance conteined in the summons, and
the debtour compeir and in court: gif the creditour hes na
securitie

The thrid Buke,

securitie for his debt, neither be pledge, nor be ane wad: bot onelie faith and promise; that is na lawfull probation in the kings court.

2. Nevertheles, that pley may be decided in the Ecclesiasticall court, be reason of the breaking and violation of the eath.

3. And albeit the judge ecclesiasticall, may cognosce in his court, anent the transgression of faith, and breaking of ane eath, and injoyne penetence to him, quha is convict thereof: the pleyis and actions anent the debtes, or the heretage of laick men, be the law of this Realme, may not be persewed nor decyded in the Ecclesiasticall court: bot onelie be reason of faith, or eath broken.

OF ANE THING BORROVED AND LENT *be securitie of writ.* CHAP. 8.

ANc debt being clamed and admitted to the persewers probation, the samine may be proven many wayes: As be writ, be lawfull witnes, or be singulare battell.

*Glanvill. lib. 10.
612.*

2. And gif the creditor produces and shawes in ane court of ane Judge, ane writ of the persewers, or of anie of his predicesors, for proving of the debt; and the debtour will not confes the samine to be his, or their writ; the samine may be again said, twa maner of waies.

3. Because the debtour may grant and acknowlege the seale; and deny that writ to haue bene made with his consent, or of his predicesors: Or he may simpliciter deny the writte and the seale.

4. In the first case, gif he confessis in the court the seale to be his seale; he fall warand that writ, and fall be compelled to keip and fulfill the tenour thereof.

5. And fall imput to his awin evill keiping of the seale, gif he incurres anie damage or skaith, throw the negligent keiping thereof.

6. In the other case, the controversie may be decided be singulare battell, be anie lawfull witnes, insert in the writ or others.

7. Faith may be proven to be given to writ (or writ may be approved) be ane other maner of way. As be comparison of mce seales; or be other writtes sealed with the samine seale, quherof there is no suspicion of falsset, nor of diversitie of seales. And
quhen

quhen it is manifest, that the writs pertain to him, quha denyes the seales; and that he in judgement warands the samine to be his awin.

8. Then gif the seales agries in all points, swa that there is na suspition of diversitie betwix them; the debtour fall be convict and condemned in the debt.

9. And quhither anie man is convict this way, or anie other maner of way, for land, for debt, or for enie other thing: he fall fine the pley, and action at all times: and mair over fall be in the Kings mercie.

10. Bot gif anie scale fall be againe said (*or taken to be improven*) and may not be improven be comparison, as said is: nor zit not notourlie knawin in the court (*to be false*) that pley may be decyded be singulare battell, because it is ane crime of falsset.

OF DEBT AVVE AND BE REASON OF ANE
lenne. CHAP. 9.

S Indrie debts may be contracted be reason of ane lenne.

2. As gif J doe lenne frelie my geir pertain to me, to zour vse and zour profite, to be taken vp be zou in zour service: *Glanvil. lib. 10.* the service being done, ze are oblitted to restore to me that samine ^{13.} thing, gif it be extant, without hurt or deterioration. *Exod. s. 22. 14.*

3. And gif the thing lent is perilled, rint, or made worse anie maner of way in zour custodie and possession: ze are oblitted to pay to me the reasonable price thereof.

4. Mair over, gif ane lennes to ane other, anie of his gudes, to ane certaine day, or to ane certaine place; and he quha received it reteins and vses the samine farther bezond the place, or after the day and time: It may be demanded, how that may be amended, or satisfied, or be quhat inquisition, or be quha is probation? It is answered, be him quha gaue the lenne, and be his witnes.

5. He quha swa abuses the thing quhilk is lent to him, is excused fra thift thereof: because the beginning of his intromission therewith, was with the consent of the awner and maister thereof.

6. Mair over, it may be demanded, gif ane man lennes ane thing, to ane other man, to ane certaine place, or for ane certaine time: gif he may repeat or againe call, that thing, before it come to the place, or before the day, and time expyre?

7. Jc

The thrid Buke,

7. It is answered, he may not repeat it, or sell it againe. Because ane lenne may not be repeted or called back againe, vntill the vse be perfited and fulfilled, to the quhilk it was lent.

OF BUYING AND SELLING.

CHAP. 10.

Glanvil. lib. 10. c.
14.

ANc debt may be contracted be bying and selling; as quhen ane man selles anie thing to ane other man: the price sould be given as debt to the seller, and the thing bocht to the byer.

2. The buying and selling is effectuellie and perfitelie compleit, after that the contracters are agried, anent the price; and the thing bocht and sauld, is delivered to the buyer.

3. Or gif the price thereof is payed, in all, or in parte.

4. Or quhen the arlis (or *Gods pennie*) is given be the buyer, to the seller, and is accepted be him.

5. Bot in the twa first cases, neither of the parties contracters of their awin will, without consent of the other, may passe fra the contract, except it be for ane just and reasonable cause: As gif it was accorded betwix them, within ane certaine terme to passe fra the contract without anie hurt or penaltie. For in that case, it is lesome to anie ane of them to passe frielie fra the said contract before the tyme conveined and agried. Because it is ane generall reule, that paction made betwix parties, is aboue the law.

6. In the thrid case, quhen arles are given and taken: gif the buyer will passe fra the contract, he may doe the samine with tinfell of his arles.

7. And gif the seller wil passe fra the contract; it is demanded, gif he may doe the samine, without ane penaltie? It appears, that he may not doe the samine; for then he wald be in ane better condition then the buyer. Because the buyer tines that quhilk he gaue, that is, the arles. Bot therefore the seller fall giue the double of the arles receaved be him; albeit na convention was made there anent.

8. Mairover, gif the seller did sell to the buyer ane thing, as without anie fault or menzie, the time of the buying and selling: gif thereafter the buyer proves that thing to haue had ane fault, or menzie the time of the buying and selling: In that case the seller fall

seller fall take back againe that thing fault be him.

9. But it is, ~~subject~~ *the thing was hild the time of the Contract.*

OF THE PERELL OF ANE THING BOCHT

and fault, and of warandice thereof, CHAP. 11.

Generallie the perell of things bocht and fault, perteines to him quha is possessor therof, except paction is made in the contrare betwix the buyer and the seller.

2. The seller and his heires, are obliged to warand to the byer and to his heires, the thing bocht and fault, gif it be immoveable, and is querelled be anie man; in the samine maner as is before said of warantis.

3. And gif it is ane thing moveable, the quhilk ane other man challenges against the buyer, as first bocht be him, or lent to him, or be anie other just cause purchesed be him, without fraude or gyle: the samine is to be vnderstand, anent the warandice thereof, as is before said, touching the warandice of things immoveable. *Lib. i. c. 15.*

WARANDICE OF ANE THIFTEOUS

thing bocht and fault. CHAP. 12.

Glanvil. lib. 10.

QWhen ane challenges fra the buyer anie thing, as thifreouslie stollen: the buyer sould defend him anent the theft alledged against him: or else to alledge and call ane warand there anent. *c. 15.*

2. And gif he calles ane warand, the warand is certaine, or incertaine.

3. Gif he in the court alledges ane certaine warand, and will call him for his warand: ane day suld be given to him in the court to that effect.

4. And gif he quha is called for warand, compeirs that day in the court, and offers him to warand to the buyer, the thing fault and bocht: then the buyer fall be made quite and frie, swa that thereby he fall tine nathing thereafter.

5. Bot gif he refuse the warandice, the pley fall proceid betwix the buyer and the warant: in sic forme, that the samine may come to singulare battell betwix them.

ANE

The thrid Buke,

ANE VVARANT MAY CALL HIS VVA- rant. CHAP. 13.

Lib. 1. c. 16.

Glanvil. lib. 10

c. 15. in fin. c. 17.

ANe warant may alledge and call ane other man, in the court for his warant: And gif he calles ane certaine warant, he fall stand at the fourt warant.

2. Mairouer, quhen ane man alledges his warant, anent ane stollen thing, challenged fra him: the vse and consweturde is, to attach the warant (*be the Kings brieve direct to the Schiref*) and in this case, gif he hes sufficient probation, that he bocht the thing clamed as lawfull merchandice: that fall releiue him fra the felonie, and fra all crime of thift, bot fall not keip him skaithles fra all damage; bot he fall tine and amit the thing challenged.

3. Bot gif he hes not sufficient probation, he is in danger.

4. Ane thing may be proven lawfullie, as debt, or be buying and selling, or as ane lenne, or be the generall maner and forme of probation, vsed and observed in courts; that is, be writ, or be singulare battell.

ANE THING LATTIN AND RECEAVED to hyre for rent and profite. CHAP. 14.

Glanvil. lib. 10.
c. 18.

ANe debt may be aweand, be reason of location and condution, that is, quhen ane man lets ane thing to ane other man, to hyre, induring ane certaine time for certaine rent or hyre aggried betwix them.

2. And he quha lattis or sets the thing for hyre, to the vse of ane other man, sould deliver to him the samine thing; and he quha receaves it, sould pay the hyre.

3. It is to wit, that he quha hes set the thing for hyre, for ane certaine terme; may lawfullie, and be his awin authoritie, repeat the samine thing, after the terme is by past.

Inc. 6. parl. 15. c.
145.

4. It may be demanded, gif he quha receaved the thing, for payment of ane dewtie, at certaine termes makes na payment of the samine dewtie: In this case, fall it be lesome to the setter, to expel and remoue him for not payment, fra the lands, or from anie other thing set for hyre, or not?

5. It is answered: That ane fewer of Kirklands, may be expelled and removed, be the Prelat of the Kirk, gif he faillics to
make

make payment of his few-ferme and dewtie, be the space of twa zeares (*for in this case, the fewer tynes and forfaults his richt*)

6. Bot the Kings court, vses not to cognosce vpon sic privat conventions made betwix laik men, and private provisions thereanent. *Supr. c. 43*

OF PROCVRATORS BE *QVHOM, QVHA,*
and how they may be made and constitute.

CHAP. 15.

PLeyes and actions before exponed, concernes the richt and propertie of things.

2. The quhilks ane man may persew (*as anie other civill action*) be himselfe personallie; or be his procuratour constitute be him, in his place, to tinc or to win in the cause.

3. Bot he quha makes or constitutes ane procuratour for him sould be present in the Kings court, for that sould be done before the Kings Justitiar sitand in judgement. *Henr. 8. An. 23. c. 16.*

4. Bot it is not necessare, that the other partie against quhom the procuratour is constitute, or he quha is made and constitute, fall be present, gif he be knawen to the members of the court.

5. Ane man onely may be constitute in the place of ane other man, twa men or moe may be constitute conjunctlie, or severallie: swa that gif the ane of them, may not be present; the other fall haue power to persew or defend that pley or action.

6. That action may be deduced in the court, and finallie ended, be the procuratour constitute as said is, be sentence of the judge, or be finall concord, als plainlie and surelie, as the partie, quha made the constitution, himselfe micht haue done.

7. It is not lesome, to ane man to make anie other man procuratour for him, nor his awin steward or baillie, anent the disposition of his lands, or his other gudes and geir, albeit he be knawin to the members of the court.

8. And in this case, gif anie man desires to be admitted in the court, in place of his maister, in anie action or pley: It is necessare that he haue ane speciall procuratorie, be ane patent letter to tinc or win in the cause.

9. The father may make his awin sonne procuratour for

K

him

The thrid Buke,

him, and the sonne may constitute the father; ane stranger may make ane other stranger, and swa forth anent others.

OF ESSONZIES AND REVOCATION OF *procuratoris.* CHAP. 16.

Q When anie procurateur is constitute in maner foresaid, for ane other man, in anie pley or action: It may be demanded gif the essonzies fall haue place in court, made for himself onely, or for his maister onely, or for them baith?

2. It is answered: That in this case, that the essonzie of the procurateur onely fall haue place, ay and quhill the procuratorie be revoked.

3. Mairover, quhen ane is constitute procurateur in court, and makes answer in the action, and does that quhilk pertains to him to doe, may the constituent at his will & pleasure revoke and discharge him, and constitute ane other in his place?

4. It is lesome to him to doe the samine, speciallic, gif capitall hatred and enimitie interveins betwix them. And swa there is na doubt, but he may remoue sic ane procurateur, and per ew the pley personallie himselfe.

5. Because quhen ane man constitutes ane procurateur for him; that is vnderstand conditionallie, gif he may not be present himselfe.

6. Therefore it is certaine, that the constituent may in anie parte of the pley, remoue sic ane procurateur, and constitute ane other in his place in the court.

THE DEID OF THE HUSBAND OBLISSES *the wife: and the deid of the procurateur oblisses the mai- ster constituent.* CHAP. 17.

Glauvil lib. 11. c.
3.

Q When the husband is constitute procurateur be his wife in her place, in ane pley anent her maritage or tocher, or her dowrie; and either tines or wones be her richt, be the decreit of the judge, or be finall concord: It may be demanded, gif the wife may thereafter moue pley thereanent, or gif she fall be oblissed after the deceis of her husband, to halde firme and stable that quhilk was done be her husband.

2. It may appeare, that the wife in this case, sould tane na thing

thing pertainand to her be richt; because sa lang as she was subject to her husband, she micht not disobey his will, or make contradiction to him.

3. Bot it is answered in the contrariwise, because pleyes decyded in the kings court sould be firme and stable for ever.

4. And he quha constitutis ane procuratour sould be distrenzeid and compelled to hald firme and stabill, all thingis done be his procuratour, quhither it be done be the decreit of the Judge, or be finall concord.

5. Bot it is demanded, quhat sall be done gif the constituent, hes not sa meikill gudes and geir quhereby he may be distrenzeid and his procuratour hes sa meikill, and is responentable? Surelie, the procuratour sould not be distrenzeid therefore.

6. That quhilk is said, that ane man, except he be present in court, may not constitute ane other in his place. The contrare appears to be trew, be that quhilk is said in the first buke of the *Super. c. 15. 3. Glanvil. lib. 11. c. 5. lib. 1. c. 7. c. 8.* *esonzies*, quhere it is said, that gif anie man sends ane procuratour for him, after the thrid *esonzie* with his letter, quhat ever he be that is send, he sall be receaved in court.

7. Bot that is vnderstand be ane rigorous forme of proces, quhilk sould be observed anent *esonzies*: Bot it is to be vnderstand otherwise quhen ane man willinglie desires in the court to substitute ane other in his place, with consent of the court, or be command of the judge to tene or wone for him in anie pley.

PROCURATORS OF RELIGIOUS MEN.

CHAP. 18.

Glanvil. lib. 11. c.

MAirover it is to wit, that Abbats and Priours of regular Channons are personallie receaved in court, without consent of their convent. *5. The order of the templairs, quha wer keepers of the hospitall at Ierusalem, for receaving of strangers pilgremers to the halie graue, begude the year 1122. & 200. years there after, was destroyed be Pape Clement. 5.*

2. Other Priours of Channons, or Monks, gif they dwell and remaine in cellis separat fra Abbacies or Monasteries, and zit pertainand thereto, are admitted in court, without the letter of their Abbat, or great Priour.

3. *Item*, the maister of the knights of the temple, and chief Priours of the hospittall of *Ierusalem*, sould be receaved be themselves personallie.

4. Na religious men inferiour to the persons foresaids, sould be receaved personallie of quhatsoever order they be.

The thrid Buke,

OF POWVER TO SVBSTITVTE ANE PROCURATOUR.

CHAP. 19.

QWhen in maner foresaid, ane man or moe, is constitute procuratour in court, be anie man in his place; may not that ane procuratour, substitute ane other in his place; or may not any ane of the twa substitute the thrid, or anie other in his or his maisters place, in that pley, to tine or wone for him?

2. It is answered, he may not doe swa: Because all things are forbidden to ane procuratour, quhilk are not expresse granted and committed to him.

OF PLEYES DEVOLVED TO THE KINGS COURT.

CHAP. 20.

Glanvil lib. 11.

c. 1. c. 2.

Lib. 1. c. 36.

Some pleyes before mentioned of richt directlie, and fra the beginning, comes to the kings court, as said is: & there ar decyded and ended.

2. Some others, albeit they come not at their beginning to the Kings court: nevertheles they come be translation to it, fra ane inferiour court (*be advocacion or reduction*) quhen the courts of inferior Lords are convict or proven to haue failzied in doing of justice.

3. Mairover, quhen anie man alledges and clames ane tenement or service to be halden of ane other man be frie service (*or other service then his maister or over-lord alledges*) and the over-lord hes not power to compell his said vassall in pley there anent, without the kings brieve or his justitiars: the vassall sall haue the kings brieve direct to his over-lord, of quhom he clames to hald the tenement or service in chief.

4. Regularlie thir pleyes vses to be decyded in the courts of Lords, or of them quha hes curtis, as Lords, conforme to the reasonable conswetude and vse of the courts. Quhilk forme of courts can not easilie be put in writ.

IN QVHAT MANER INFERIOVR COVRTS may be proven to haue failzied in doing justice

CHAP. 21.

IT may be proven in this maner, that courts hes failzied in doing of justice

2. Quhen

2. Quhen the persewer of ane action in ane inferiour court, complains to the Schiref; that wrang is done to him, anent that thing quhilk he clames: the Schiref shall send at the day quhilk is assigned to the parties be the Lord of the court, ane of his sergents that he in presence of foure loyall knichts, or moe of the samine schirefdome, commanded be the Schirefs precept, to passe with him, shall heare and see in quhat maner the persewer verifies, that court hes failzieid in doing of justice to him. Glanvill lib. 22. c. 7.

3. The quhilk the persewer shall verifie, be his awin eath, and be the eath of other twa, quha heard the samine.

4. In sic solemne maner, actions or pleyes vses to be advocat and transferred fra some inferiour courts, to the Schiref court and there, of new to be pleaded, and finallie ended; without anie remission of them, to the inferiour courts of Lords or their heires, sa far as concerns that pley or action: for they can not be judges in that cause, in respect of the said reason, founded vpon the wrang done be them.

5. Bot gif anie pley happins to be advocat fra ane inferiour court, to ane superiour court, before it be proven that wrang was done in the inferiour court: the samine pley at the instance of the Lord of the inferiour court, sould be remitted back againe to his court, be reason na wrang is proven to haue bene done in his court: And swa the pley sould not be advocat fra the inferiour court, except it be proven that wrang was done in it to the persewer, in maner foresaid.

6. Bot gif ane pley is advocat to the kings heid court (*before the Justiciar*) the Lord of the inferiour court, may not seik the samine to be remitted to his court, except he seik the samine thrie dayes before the terme of comperance in the Kings court, in presence of fundrie loyall men.

7. And gif na day is assigned (*in the inferiour court*) to the persewer to complaine of delay of justice made to him; it is sufficient to him to falsifie that court, in quhat place he please in maner foresaid vpon the ground of the sic, or land contraverted: gif the Lord hes na residence within the land.

8. Like as it is lesome to the Lord to hald his court, and assigne ane day to the persewer, in quhat place he please vpon the land: bot he may not be the law doe that in ane other place without the land.

The thrid Buke,

9. The persewer sall raise the brieve, directed onely to him, of quhom he clames to halde the land in chief, and to na other over-lord.

10. Bot quhat sall be done, gif the persewer alledges him to hald the land of ane over-lord, and the defender of ane other?

11. Surelie in this case, because he to quhom the brieve is direct, may not dispoiles ane other of the richt of his court justlie, without ane law full decreit of ane judge, in the quhilk he is vest and saised, he may not be judge, nor hald court in this cause: bot of necessitie the matter mann come to the Schiref court, and there mann be decyded and ended.

12. Swa baith the alledged over-lords sould be summoned to compeir before the Schiref, that in presence of them baith, the cause may be decyded, as is before said, in the treatis of warants.

Lib. 1. c. 24.

PLEYES ANENT LORDS NOT DO AND JUSTICE, PERTEINS TO THE SCHIREFS. CHAP. 22.

Pleyes and actions against Lords, quha are alledged to haue failzied in doing of justice, sometime pertains to Schirefs of the countrie.

2. And likewise, some other pleyes pertaines to them: As quhen ane man compleins to the Schiref court, that his over-lord against vse and wont, askes fra him service, or mair service, nor he sould doe to him, for his frie tenement, quhilk he halds of him.

OF THE RECORDS OF COURTS.

CHAP. 23.

Ane record of court signifies the rehearsal, or the report of ane process, or interlocutor made in ane superiour court, quhilk was pronounced in ane inferior court.

Glazil. lib. 8. c. 9.

One court may haue record, be the will and benefite of the King, or his principall Justitiar.

2. As quhen the King moved with anie just cause, commands ane inferiour court to be summoned to make record in his court: swa that the King will that it fall not be lesome to the inferiour court to say against that record.

3. Ane court sundrie times may be summoned to make record of ane pley, in the Kings court, before the King or his Justitiar: albeit that court hes ane record, quhilk may not be againe said. Because, be consent of the parties, the pley may proceed, be way

way of recorde in the Kings court, gif the parties grants the record to be sic, that it may be againe said, or impugned.

4. The summons sould be made be the Kings brieve, for to make record before the Justitiar.

5. Moreover, inferiour courts may make record in the Kings court of sic things as are done in them. As quhen ane Baron hes ane cause dependand in his court, quhilk is doubtfull, swa that his court can not determe or decyde the same: then his court may haue recourse to the Kings court, to aske counsell and advise anent the doubt, quhat they sall doe there anent.

6. And be the law, the King sould doe this to his Barons, that is, quhen they in ane obscure and difficill cause, askes counsell at his court, how they sall judge and decerne: he sould cause the same to be given to them, be the wise men in his court.

7. And quhen the Barons are certified in the kings court, anent the doubt and difficultie; they may returne the pley to their awin court, and there end finallie the same.

8. The Schiref court may haue record in the same maner, as inferiour courts, be the Kings law of the Realme made there anent.

9. As gif singular battell is waged (*be given of wads hinc inde be the parties, ilk ane to others*) in ane inferiour court: and thereafter the action is advocat to the kings court, anent the claime of the perseuer, and the defence of the defender: and touching the words be the quhilk the battell did begin, & was waged: and concerning the pledges given and receaved there anent: In this case the inferiour court hes power to make record in the kings court.

10. And likewise, anent the exchange of champions. For gif after that the pley is transferred or advocat to the kings court ane other champion is produced in the kings court, then he quha waged the battell in the inferiour court: and question and contention arise heiranent; be the law of the Realme, faith sall be given to the record of the inferiour court.

IN QUHAT MANER IT IS LESOME TO
impugne the records of inferiour courts.

CHAP. 24.

Q When anie man sayes or alledges anie thing in ane other court, then the kings court, quhereof he is penitent: be his awin

The thrid Buke,

awin eath, and the eath of other twa, he may affirme that he said not swa; or be the eath of moe, or fewer, conforme to the consuetude of divers courts.

2. Mairover, ane man may eik the record of ane inferiour court, and affirme that he said nair nor is contained in the record: and he may proue against the haill court, be the eathis of foure leill men, or moe conforme to vlc of the court, that he said the samine in plane court.

3. Because na court is oblissed to proue her record, or to defend the samine be singulare battell.

4. It is not lesome to anik man be the law, to grant ane parte of the record, and deny the oth er parte.

5. And neverthcles, all and haill the record at the beginning may be denyed, be making of eathes, in maner foresaid.

6. Albeit na court is oblissed to defend her awin record be singular battell: zit the court is bound and oblissed, to defend her dome and sentence be battell.

7. As gif ane man alleeges, that ane court hes given and pronounced false dome, and jugement against him; and offers him reddie to proue the samine, against him, quha will deny it: and speciallic be anie lawfull wimes reddie to fecht be battell therefore swa the matter may come to battell betwix the parties.

8. It may be demanded, cuither the court may defend the selfe be ane member of the court, or be ane stranger? It istrew, that the court sould defend the selfe, speciallic be him, quha pronounced the dome and sentence, and not be ane stranger. And gif the dome is againe laid, because ane of the court sayes against it in sic ane maner; and ane other man of the court sayes otherwise. And swa the court hes given dome, and pronounced sentence be discrepance, and without haill consent: In this case, gif the court happins to be convict; the Lord of the court sall remaine in the Kings mercie, and sall tene his court for ever: and all the members of the court, sall be likewise in the kings mercie.

9. And gif he quha makes the challenge, failzie in probation thereof, thereby he sall tene his principall cause.

ACTIONS ANENT KIRKLANDS BEFORE
the Judge Ecclesiasticall, and anent temporall lands, before
the Judge civill should be decyded. CHAP. 25.

MAirover, it is to wit, that conforme to the conswetude of the Realme, na vassall should be compelled to answer anent his tenement or heretage, in the court of his over-lord, without the Kings precept, or of his justitiar. And this is trew, quhen temporall land is socht and conteined in the brieve.

2. Bot gif ane pley is betwix twa Clerks for ane tenement, quhilk pertains to the kirk, be reason of frie almes: or gif the defender being ane Clerk, holds that kirkland, in name of frie almes; quhither the persewer be ane laik man, or ane Clerk: that pley be the law, should pertaine to the judge ecclesiasticall, and be decyded be him.

3. Bot gif it be desired, that recognition be taken, quhither *Infra.hoc.lib.c.* the land be kirkland, or temporall land (*quhereof it shall be spoken 34. beir after*) in this case, this recognition and all others of the like nature should be determed, and ended in the kings court.

OF THE PERSEVVER QVHA ASKIS
mair or les nor he should doe. CHAP. 26.

IT is to wit, that in the brieve of richt, sometime les is conteined, nor is asked be the clame, als well concerning the pertainents, as principall. And sometime mair is conteined nor is clamed.

2. Likewise, ane error is, touching some name conteined in the brieve: and sometime concerning the quantitie of the service.

3. Bot gif les is conteined in the brieve, nor in the clame: na mair may be socht be that brieve, nor is conteined in that brieve.

4. Quhen mair is conteined in the brieve, nor in the clame, the superplus abundant in the brieve, may be discharged, and the rest may be asked be the samine brieve, conforme to the clame.

5. Gif error is committed in the name; be the rigour of the law, ane other brieve should be raised.

6. Quhen

The thrid Buke,

6. Quhen ane errour is committed, anent the quantitie of the service, be the rigour of the law, that brieve is nulle, and may be callen.

7. Some time ane tenement is asked for payment of les service nor is awand, or sculd be done therefore, to the over-lord: It is demanded quhither or not, the over-lord sculd hald and keip that petition as just and richt to the hurt and detriment of his service?

8. It is answered that he is bound to doe swa. For he sall haue regres and action against him, quha sauld that tenement and service to him.

OF SYNDRIE KINDS OF RECOGNITION.

CHAP. 27.

Q'willib. 13. c.

1. 4. 2.

THe generall forme commonlie observed, anent the pleyes of richt, are partly expound: Now rests to declare pleyes, used and wont concerning saisings.

2. And because the samine for the maist parte, be the law of the Realm (*quhilk is called ane assise*) vles to passe be recognition: therefore it rests that we speik of divers recognitions.

3. Some recognition is called of mortancestrie.

4. Some of last presentation of ane persone, to ane kirk.

5. Some, quhither ane tenement be kirkland, or temporall lands.

6. And some, quhither ane man the day of his deceis was vest and saisid in ane frie tenement, as of tie, or as wadset.

7. Some, quhither ane man is of perfite age, or within the samine.

8. And some, quhither ane man presented ane last persone to ane kirk, within his heretage, pertening to him in propertie; or be reason of warde of the lands, being in his warde and custodie.

9. Last of all, some recognitions are called of novelle dissaisine.

10. And sic others, as oft times fallis out in court, in presence of the parties, and with their consent; or be advise and consideration of the court, for determination of sundrie controversies.

OF

OF THE RECOGNITION OF MORTANCESTRIE.
CHAP. 28.

QWhen ane man deceitles saised in frie tenement, swa that he is vest and saised therein in propertie, and as of fie: his heire may seik saising thereof: and gif he be of perfite age, he fall haue the brieve of mortancestrie.

Glasgow. lib. 13.

2. After that he receaves the brieve fra the Schiref, and hes made securitie to him (*be finding of borgh*) that he fall persew his clame; be this order the mater fall passe to ane assise. *Quon. Attach. c. 52.*

3. First, twelue frie leill men of neighbours, sould be chosen, conforme to the command contained in the brieve, in presence of baith the parties, that is, the persewer and the defender. *Iac. 1. parl. 9. c. 127.*

4. Or in absence of the defender, provyding he be ains summoned to be present at the election.

5. For it requyred, that he be anis summoned to be present to heare quhat persons fall be elected and chosen to take that recognition; and to refuse gif he please, some of them for reasonable causes, that they may be repelled to passe vpon that recognition.

6. And gif he compeirs not, be reason of the first summons being richtlie verified be the witnes insert therein; he fall be na langer loked for, or abydin, bot in his absence the twelue assisours fall be chosen.

7. And thereafter at command of the Schiref, the assisours fall visie the ground of the land or tenement, quhereof saising is clamed: nevertheles, the persewer, yet as before, fall haue ane summons against the defender, for visie of the ground.

8. The Schiref fall cause imbreuiat, and put in writ the names of the twelue assisours.

9. And thereafter the Schiref fall summe the defender be the Kings brieve, or of his justitiar, to compeir at ane certaine day before the King, or his Justitiar, to heare that recognition.

10. The defender may vse essonzies at the first or secund summons or court; gif the persewer is of perfite age.

11. Bot at the thrid court he may vse na essonzie: bot then, recognition fall be taken, quether he compeir or nocht, as said is, for in recognition passed be ane allyse, twa essonzies onlie hes place

The thrid Buke,

place: And in the recognition anent novelle dissaifine (*ejection or spuilzie*) na ellonzie fould be receaved.

12. Swa at the thrid court, quhither the defender compeir or not, the aillife fall proceid, as said is.

13. And gif the aillifours decreits and delivers their verediēt, in favour of the perfewer, faifing fall be adjudged to him: And command fall be given to the Schiref, that he fall giue him faifing.

14. Quhen the perfewer hes gotten faifing, he fall haue pōf-
feffion of all the cattell and other gudes quhilk fall be found and
apprehended vpon that land, at the time of the giving of the
faifing and retaine them to himfelfe (*swa that they pertained to
the defender*)

15. After the faifing is swa given to the perfewer, the defen-
der quhatint the fame, may pley thereafter anent the richt of
the lands, be the brieve of richt, conforme to the quantitie of the
time, after the full restitution made to the perfewer.

16. Bot gif the aillife decreits and delivers their verediēt in fa-
vours of the defender, being absent: faifing fall remaine with
him, and may not be recovered fra him anie maner of way be the
perfewer.

17. Bot that faifing steppis not the pley anent the richt of the
lands; like as the pley anent the richt of anie tenement stayes not
the recognition, quhereby ane feiks faifing conforme to the faif-
ing of his predicellour of the fame tenement, before fingulare
battell is waged thereanent.

OF WHAT CAUSSES THE BRIEVE OF mortancestrie may be stayed. CHAP. 29.

*Glanvil. lib. 13.
6. 11.*

Q When baith the perfewer and the defender compeirs in
court, it is the vse to demand and speir at the defender, gif
he hes anie thing to object and say, quherefore the aillife fould
stay.

2. Swa it is to wit, that some time ane quha is of perfite age,
and major, feiks this recognition against ane minor: Some time
ane minor against ane major: some time ane minor contrare ane
other minor: and some time ane major contrare ane major.

*1st. 4 par. 6. c.
94.*

3. Generallie, the aillife fall stay, gif the perfewer confessis in
court, that the defenders predicellour was vest and faifed in the
lands

the lands contraverted, the day quhen he died, as of fie: and allso grants the remanent points contained in the brieve: Bot gif the raising allanerlie is confelled, and the rest of the points not granted, the assise fall passe forward, and cognosce vpon the pointe, or points not granted.

4. Mair over, this assise may be stayed for many other causes: As for ane example: Gif the defender alledged, that the persewer was saisid in the lands, after the deceis of his father, or of ane other his predicesour, quhither the predicesour was saisid in the land or not saisid the day that he died; and that the persewer hes made to him sic richt and title, in respect quhereof the assises sould not proceed. As gif the defender alledges, that the persewer did sell the samine lands to him, or gaue them to him, or discharged them in his favours, or analied them to him anie lawfull maner of way. And in this case, the mater may come to singulare battell, or the samine may be verified be sic lawfull probation, as is vsed in the court (*anent the richt of lands*)

5. *Item*, gif it is alledged be the defender, that the persewer ane other time of before, intended ane pley anent the samine lands against him; and that the samine pley was finallie ended betwix them: Swa that the land was decerned to remaine with him, be sentence definitiue, be battell, or be dome of fire, or water.

6. *Item*, bondage objected be the defender, and proven in court against the persewer, stayes the assise.

7. *Item*, the exception of Bastardrie does the samine.

Lib. 2. c. 50. c. 51.

8. Likewise, the Kings Chartour stoppes the assise, be the quhilk Chartour, the land, quhereof the raising is craved, is speciallie expressed and confirmed to the defender.

9. *Item*, the assise sould stay, quhen moe heires persewes conjunctlie, that is, moe Knights; that is, moe heires of lands halden be service of warde and releiue (*to the quhilk the eldest sonne allanerlie succeides*) or in lands halden be frie Soccage, quhen heires male and famell baith persews (*quhilk may not be done, because in all successions, the male excludes the famell*)

Lib. 2. c. 27.

10. *Item*, gif the persewer grants that the defenders predicesour had anie maner of raising, as be wad-set, or be ane lenne, or anie sic cause: thereby the recognition, or the assise fall stay in fa-

Lib. 2. c. 30.

The thrid Buke,

Your of the defender, and the mater sall be pleaded and persewed ane vther maner of way.

11. *Item*, consanguinitie staves the assise: As gif the defender objects and proves in court, that he & the persewer are baith descended of ane stock fra the quhilk the heretage quhereof the saisng is socht, descends (*and it is uncertaine, quhilk of them is neirest to the stock*)

12. *Item*, in the treatise anent maritage, in case, gif the eldest brother giues ane portion of his land, to his after-borne brother, quha deceissis without ane heire gotten of his bodie: In this case, and in the like case, the assise sall stay, because ane man may not be baith over-lord, and vassall of ane land.

13. *Item*, gif the persewer confessis in court, or is convict, that he bure armes, and made weir against the King; thereby the assise sall stay, be the quhilk he claimes anie richt against the defender.

14. *Item*, the assise sould be stopped, be reason of burgage, gif for greater profite to the persewer, ane other assise is halden and passed within burgh.

Supr. c. 28.

15. Bot gif na exception, or na relevant exception is proponed be the defender in the court; the recognition sall proceed in presence of baith the parties, be the oath of the twelue leil men: & conforme to their dome and deliverance, the saisng sall be adjudged to the persewer, or the defender, in maner foresaid.

OF ANE MINOR PERSEVV AND AGAINST ane major. CHAP. 30.

*Glenvil. lib. 13.
c. 12.*

QWhen ane minor seiks saisng against ane major, be the brieve of mortancestrie: the essonzie made be the major, against the minor, hes na place. Bot the recognition sall proceed the first day, quhither the defender being major, compeir, or not compeir.

Supr. c. 28.

2. And that is trew, be this generall reason: For seing the defender could not be heard to alledge anie essonzie, albeit he were present in the court, quhilk micht stay the assise: be the law, the recognition sall proceed not aby dand vpon the presence of the partie. And swa the recognition sall proceed, quhither the defender, quha is major, be present or absent, in forme foresaid.

3. And swa gif restitution of the saisng is made to the minor conforme

conforme to the recognition, he fall not be compelled to answer anent the richt and propertie of the lands, vntill he be major.

OF ANE MINOR PERSEVVAND AGAINST
ane minor. CHAP. 31.

QWhen ane minor persews against ane other minor; the recognition betwix them, fall proceid without anie doubt, in sic forme and maner, as betwix ane minor and ane major.

OF ANE MAJOR PERSEVVAND AGAINST
ane minor. CHAP. 32.

GIf ane major persewes against ane minor; the minor may vse elsonzies against the major in forme of law. *Glauvil. lib. 13. c. 13.*

2. And quhen he compeirs, he may seik ane delay, be reason of his age; and alledge that na recognition sould be taken, anent the lands contraverted, be the brieve of mortancestrie, vntill he come to his perfite age.

3. Bot it is to wit, to the effect that the assise stay, be reason of the les age and minoritie of the defender: it is necessarie, that he alledge that he is vest & saised in the tenement, asked and craved be the major: And swa that na recognition sould proceid there anent, vntill he be of perfite age. And mairover, it is requyred that he alledge, that his father, or some other his predicessour was vest and saised therein, the day quhen he deceitied.

4. Gif ane minor, within his minoritie conquestis anie lands, and possessis the samine, be that his awin proper richt proceiding fra himselfe originallie; neither the recognition anent the saising thereof, nor zit anie pley touching the propertie of the samine lands fall stay; bot proces fall proceid against him, notwithstanding of his minoritie.

5. Gif it be proponed be the persewer, be way of reply, against the minor, that albeit his predicessour deid, vest and saised in the tenement, quhereof the saising is craved be the recognition: zit that saising was not be reason of sic and propertie, bot be reason of the warde of that land, being in his hands, as superiour thereof; in this case, albeit the principall cause and pley of recognition be the brieve of mortancestrie, sould cease and stay, in re-

The thrid Buke,

Glauvil. lib. 13.
6.15.

spekt of the minoritie of the defender: Nevertheless, ane recognition fall proceid vpon this, that is to say, quhither the predicessour of the defender, quha is within age, was saised in the said land, the day quhen he died, as of fie, or as of warde. And ane assise fall be summoned to that effect.

6. It is not necellare to summond the defender, gif he and the persewer being baith present in court, ane day of compeirance is assigned to them (*apud acta*)

7. Swa the recognition fall proceid, be the eath of twelue sworn assisours; and conforme to their determination, and veredict, it fall be decerned, quhat kinde of saising the predicessour of the defender being minor, had the day quhen the deit of the land, quhereof saising is socht against him.

8. And gif it be proven thereby, that the predicessour of the defender, being minor, had na saising, bot be reason of warde the day quhen he died: then he quha persews and asks saising against the minor, fall obtaine and recouer saising of the land craved be him be the brieve of mortancestrie.

9. Bot it may be demanded, giue the said deliverance of the assise, anent fie and warde, fall be ane sufficient probation to the persewer to obtaine saising of the land craved be the brieve of mortancestrie, as of fie, or not? It appears not. Because be the deliverance of the assise, anent the recognition of warde and of fie, it is not manifest, that the predicessour of him quha persews be the brieve of mortancestrie, was the day quhen he died, vest and saised in the land, as of propertie and of fie; nor zit it is not verified thereby, that the persewer is narrest and lawfull heire to his predicessour.

10. Bot it is answered in the contrare: Because it being verified be ane assise, that the predicessour of the minor defender, died vest and saised as of warde; the defender hes na richt to reiteine the saising or possession. It is demanded, gif heirafter recourse fall be had to the principall recognition intended and persewed be the brieve of mortancestrie?

11. It is answered: Gif it be proven be the eath of twelue sworn assisours, that the predicessour of the minor quha is defender, died vest and saised, as of fie in the said land: in that case, the saising fall remaine peaceablie with the minor, vntill he be of persite age.

12. Bot

12. Bot the persewer his partie adversare, or his heires fall be heard afterward to pley against the minor, anent the proprietie of the lands, quhen the minor comes to perfite age, or against his heires.

13. Mairover, the recognition fall proceid against ane minor, in ane case, quhilk is writtin before in the treatise of heires within age (*that is, ane over-lord being minor, fall be compelled to answer to his vassall being major, seikand entres to his lands.*

Lib. 2. c. 42.

14. Gif the assise quhilk is summoned against the mainor, proceeds and decerns the saising to remaine with him; he fall not answer, touching the proprietie of the lands, vntill he be major.

15. Because, generallie it is trew, that ane minor being within age, is not bound and oblissed to answer or defend in anie pley, be the quhilk he may be deprived of his heretage; or be the quhilk he may tine life or limme, vntill he be of perfite age.

16. Bot in some other cases, he is oblissed to answer albeit he be minor; as for the debts of his predicessours, or for his awin proper debts, or for novell dissaisins.

Iac. 4. parl. 6. 56.

17. Bot gif the assise decerns in favor of the persewer against the minor defender, and adjudges the saising to the persewer; restitution fall be made to him in maner foresaid. Nevertheles the minor fall not be compelled to answer in pley, anent the proprietie of the lands vntill he be major and of perfite age.

69.

Richard. 2. An.

8. c. 4.

Lib. 2. c. 42. 6.

18. And that is trew, be this reason: Because all things done with minors in sic pleyes (*quherein they are hurt*) may na wayes be firme and stable.

Stat. With. c. 29.

19. Quhen ane minor in court alledges the priviledge of his minoritie, and it be replied to him, that he is of perfite age, and major: this controversie anent the age of the minor, fall be declared be the recognition of aucht loyall men, summoned to that effect.

20. And gif he be proven be that recognition to be major, and of perfite age; in all time thereafter, in that principall cause, he fall answer as ane of perfite age.

Glanvil. lib. 13.

c. 17.

21. Bot it is demanded, gif he, be vertew of that recognition fall be esteemed to be major in other clames or pleyes, swa that he may not defend himselfe against others of the priviledge of his minoritie.

22. Gif be that recognition, he is proven to be minor,

The thrid Buke,

he fall vse that priviledge in that principall action or pley; bot not in pleyes or actions perfewed against him be other men.

OF THE RECOGNITION ANENT THE richt of patronage of Kirks. CHAP. 33.

*Glanvil. lib. 13.
c. 18.*

Followes now the recognition of the last presentation of persons to kirks. Quhen anie kirk fall happin to vaik, and contraverfie is anent the presentation of ane persone to it; the samine may be decyded be the recognition of the last presentation, at the instance of either of the parties, craue and the decision thereof.

2. Baith the parties compeir and in the court, and all cllonzies and delayes being discusled, the perfewer fall propone his clame in this maner: I clame the advocation of sic ane kirk, as my richt and pertainand to my heretage, in the quhilk advocation, I, or sic ane of my predicellours was saised in time of peace, and in time of sic ane King, in sic maner of possession: because I presented ane person to that samine kirk vakand, quha conforme to my presentation, receaved institution (*fra the Bishop of that diocie*) and gif my partie adversare will deny this: I haue honest men, quha saw and heard this, and are readie to proue the samine as the court please, and speciallic, sic ane man in maner foresaid.

3. The clame of the perfewer being heard, the defender may defend him be battell, or be ane assise, after the forme and maner foresaid.

4. The recognition passand fordward, baith the parties being present or ane of them; gif it be found be ane assise that he or any ane of his predicellours did last present the last person to that kirk: thereby it fall be proven, that he hes the saising and possession of the advocation and patronage.

5. And swa the first person presented be him, to that kirk vackand, and receauand institution fra the Bishop, gif he be qualified, fall posses that kirk induring his lifetime, quhat ever chances anent the richt of the patronage.

6. Nevertheless, he quha hes tint the last presentation, be deliverance of the assise, may intend action and pley be ane recognition against him or his heires, quha did win and obtaine the last presentation and pley against him or them, anent the richt of the patronage.

7. It may be demanded, for quhat causses or reasons at the
beginning

beginning of the pley, the assise may be stopped? It may be excepted be the defender, that he confessis that the predicellour of the pertewer, had the last presentation, as trow Lord and heire: *Causis quibus fore this assise may be played.* zit it is of veritie, that he thereafter lawfullie gaue and disposed to him or his predicellours, the samine lands, to the quhilk the richt of patronage is annexed: In respect of the quhilk exception the assise sould itay, vntill the exception proponed be the defender against the pertewer be first discusst.

8. Mairouer, it may be granted be ane of the parties (*and denyed be the other partie*) that the predicellour of the other did not make the last presentation, be reason of fie, bot of warde, quherevpon the partie denyand, may aske recognition and obtene, and win the pley. *Of ane Exception fundid upon possession of warde.*

9. And swa that being declared be the assise (*that is, that the last presentatour gaue his presentation be reason of warde*) the presentation given be him fall itay, and the richt of presentation fall perteine to the other partie.

10. For gif the other hes the richt of presentation perteining to him, as of fie, the samine fall remaine with him thereafter.

11. Mairouer, fundrie reasons, quhilk may itay the brieve of mortancestric, may also be relevant to itay this brieve.

12. *Item*, ane contention may be anent the advocation of ane kirk not vackand, that is, gif the persone provyded thereto, alledges him to be provyded to that kirk be ane other patron, and not be him quha alledges him to be the richt patron of that kirk. *Controversie anent the patronage of ane kirk nocht vacand.*

13. In this case, the Kings brieve fall be raised, quhereby the Person, or the Clerk, possellour of that kirk, fall be summoned to answer and shaw be quhat patrons richt he is provyded, and posselles that kirk. And also gif he declares and names the patron, he fall also be summoned to shaw ane cause quherefore he troubles and molests the Person or Clerk, anent his provision and gift givento him.

14. Gif the Clerk summoned be the Schirefs precept, compeirs not, nor sends not, at the day of compeirance; or gif he sends ane cllonzie, and compeirs not: gif he hes not laik or temporall lands, be the quhilk he may be distrenzie: command fall be given to the Bishop of the diocie, gif he be present, or to his officiall, gif the Bishop be absent, to compell and distrenzie him to come

The thrid Buke,

come to court, or to punish him for his default, be taking of his kirk and benefice in his hand and possession, or be anie other manner of way, quhereby he may distrenzie him in best forme and maner.

15. At last, the Clerk compeir and in court, gif he affirms him to be patron, quha craues the patronage; the action and pley fall remaine in the Kings court, and fall there be decyded.

16. And gif the patron denied that quhilk the Clerk affirms, that is, that he is institute, be vertew of his presentation, or of any of his predecessours, and is readie to pley there anent against the Clerk, that pley fall be decided before the Judge ecclesiasticall.

17. Gif the Clerk nominats ane other patron, quha is summoned to compeir in court; he compeirs or not compeirs, or sends ane essonzie; and after his essonzie is send, he compeirs, or not compeirs.

*The contumacie
of the patron.*

18. Gif he compeirs not to make answere, nor sends ane for him, the patronage fall be sequestrat, to remaine in the Kings hand and possession.

19. And gif he compeirs not within fiftene dayes, to repledg the samine (*he quha askes and craves the patronage fall haue possession thereof, be reason of the non compeirance of the other nominate patron*)

*Of the patron
compeirand and
denyand.*

20. It is demanded quhat salbe done to the Clerk, fall he tine his kirk and benefice, for the contumacie of him quhom he nominate to be his patron? Surelie he fall not tine it for that cause.

21. Gif he quha is nominat be the Clerk, as patron, compeirs, either he confessis himselfe to be patron of that kirk, or denyes.

22. Gif he denyes that he hes anie richt of patronage to that kirk; the pley fall cease and stay in the Kings court, and fall proceed and be determed betwix the Clerk and the patron in the ecclesiasticall court.

23. Swa lang as the pley depends betwix the persewer persewand as patron of the kirk, for the richt of the patronage, on the anc parte; and the other nominate patron, and his Clerk, on the other parte: gif it happins in the meane time the kirk to vaik, to quhom fall the presentation perteine?

24. It is answered, gif na question is moved, anent the last presentation, and the defender against quhom the richt of patronage is

tronage is craved, or anie of his prediceffours made the last presentation: In that case, he fall present in the meane time, ane persone, vntill he tme be decreit of the Judge the presentation.

25. Swa it is manifest, that gif the patronage of anie kirk is sequeitrat in the Kings hands, be reason of the contumacie of the patron, for the space of fiftene dayes: and it happin within that time the kirk to vaik, the patron fall not tme and amit his richt of presentation.

26. Gif he quha is nominat be the Clerk as patron, affirms the richt of patronage to pertain to him, and will defend the same as properlie pertaining to him; in that case the pley fall proceed, as said is.

27. Quherein, gif he is victorious, he and his Clerk fall be essolzed fra the clame of the persewer.

*Of the patron
compeir and, and
affirmand him
self to be patron.*

28. And gif he failzie and tines the pley; in that case, he and his heires fall tme and forfault the richt of patronage in all tyme thereafter.

29. Bot it is demanded, quhat is to be said to the Clerk or Person of that kirk, quha in court affirmed him to haue the personage of that kirk, be the presentation of that patron?

30. Trewlie in the Kings court, na mair is to be done, bot onely the decision of the richt of patronage betwix the twa patrons.

31. Bot the patron quha did acqyre and win the richt of patronage may pley against the Clerk in the ecclesiastical court, before his Bishop or his official.

32. Swa that gif he quha presented the Clerk, was reput and halden as richteous patron, the tyme of the presentation: the Clerk fall remaine and keip possession of that kirk induring his lifetime.

33. For seing it is statute anent all Clerks, quha hes obtained institution be presentation given to them be sic patrons as hes in time of weir ingyred themselues violentlie in the patronage of kirks, that the saids Clerks fall tme the saids kirks, and na wayes posses them induring their liffetime; meikill mair, in this case, after the deceis of them quha were reput and halden as patrons, the richt of patronage fall returne to the trew and lawfull patrons.

34. Swa it is manifest, that gif the richt of patronage is tint, be ane man, anis in the Kings court, and is adjudged to ane other; he

The thrid Buke,

Lib. 1. c. 13.

L. b. 3. c. 7.

Of ane pley be-

twix sundrie

Clerks, and sun-

drie patrons

whether; he quhairt the same should not be heard thereafter, to desire ane recognition be ane allise, to recover the last presentation of that kirk; because he tint in judgement the right of the patronage.

35. Except some cause of new come to his knowlege, for the quhilk he should be as zit heard; because all pleyes and contraversies determed and ended in the Kings court, should be firme and stable in all time thereafter.

36. *Item*, quhen controversie is betwix twa Clerks before the Ecclesiasticall Judge for ane Kirk; alledgeand them to be presented be sundrie patrons: that pley should stay and cease before that Judge, at the desyre of anie of the patrons, vntill it be decyded in the Kings court, to quhom of them the right of patronage perteynes.

37. And gif the Judge proceides, after that he is discharged: the patron shall haue ane brieve, to summe baith the Judge, and the other partie, to compeir and answer quhy they proceeded, as gif it had bene in ane laick sie, or temporall land.

OF RECOGNITION ANENT LAICK sie, and Ecclesiasticall sie.

CHAP. 34.

Glanvil. lib. 13.

c. 23.

*Anent the brief
of richs.*

L. b. 1. c. 13.

Followes the recognition anent ane tenement, quhither it is temporall land or kirk land.

2. Either of the parties desyrand to haue recognition heiranent: in this recognition, as in all others (*except in the recognition of the great assise*) na moe ellonzies hes place, bot onely twa. For the thrid ellonzie is never admitted, bot quhere ane question of infirmite is, quhither it is ane langour or not.

3. The quhilk vses not to be vsed in recognitions, and therefore the thrid ellonzie is not admitted in them.

4. Swa this recognition shall proceid, in sic forme as other recognitions.

5. It is to wit, that gif it be found and declared be the recognition, that the lands are kirk lands: the same can not thereafter be declared to be temporall lands; albeit it may be desyred be the partie, that they be halden of the Kirk, for dewtifull service.

OF

OF RECOGNITION OF LANDS *QUHITHER*
ther they are wadset or irredimable.

CHAP. 35.

IT rests to speik of that recognition, quhither ane man deceif-
 sed vested and saised in lands, as of *fic* (*irredimable*) or as lands
 wadset (*under reversion*)

2. Quhen ane man desires to redeme his lands, and them to
 be restored to him, as lands wad-set, be him, or of anie his predi-
 cessours: gif the possessor grants them not to be wad-set, bot al-
 ledges in the court, that he is saised therein as of *fic* (*irredimable*)
 then it comes to ane recognition be ane assise.

3. It chanches sometime, that ane man hes lands wadset to
 him, and that he deceifses before the redemption thereof, saised *Glanvilla. lib.*
 in the samine; and be reason of that saising, his heire raises the *13.c.28.*
 brieve of mortuancestrie, against the richteous heire, and thereby
 obtains saising of the lands.

4. In this case, gif the possessor of the lands, confessis that
 the persewars prediessor died vest and saised in the lands, not as
 wadset lands, bot as *fic*; this mater betwix them may come to ane
 recognition.

5. And gif it be found be the recognition, that the lands are
 wad-set; the defender sall fine the lands, and sall na wayes reco-
 ver his debt (*or the silver for the quhilk the lands wer wadset*)

6. And gif it be found be the recognition, that the lands per-
 teines heretable, and irredimable to the defender: the persewer
 thereafter sall not recover the samine, bot be the brieve of
 richt.

7. It may be demanded, gif this recognition, or anie other,
 may be delayed, be the calling of ane warrant or not?

8. Ane warrant may be called quhat ever he be, for ane
 lawfull cause, speciallic gif after twa elsonzies, he is lawfullie sum-
 moned.

9. Other recognitions not expounded, partlie are declared a-
 monst the foresaid recognitions: and partlie may be vnderstand
 be the dome of court, given conforme to the words and saying
 of the parties in the court.

OF

The thrid Buke,

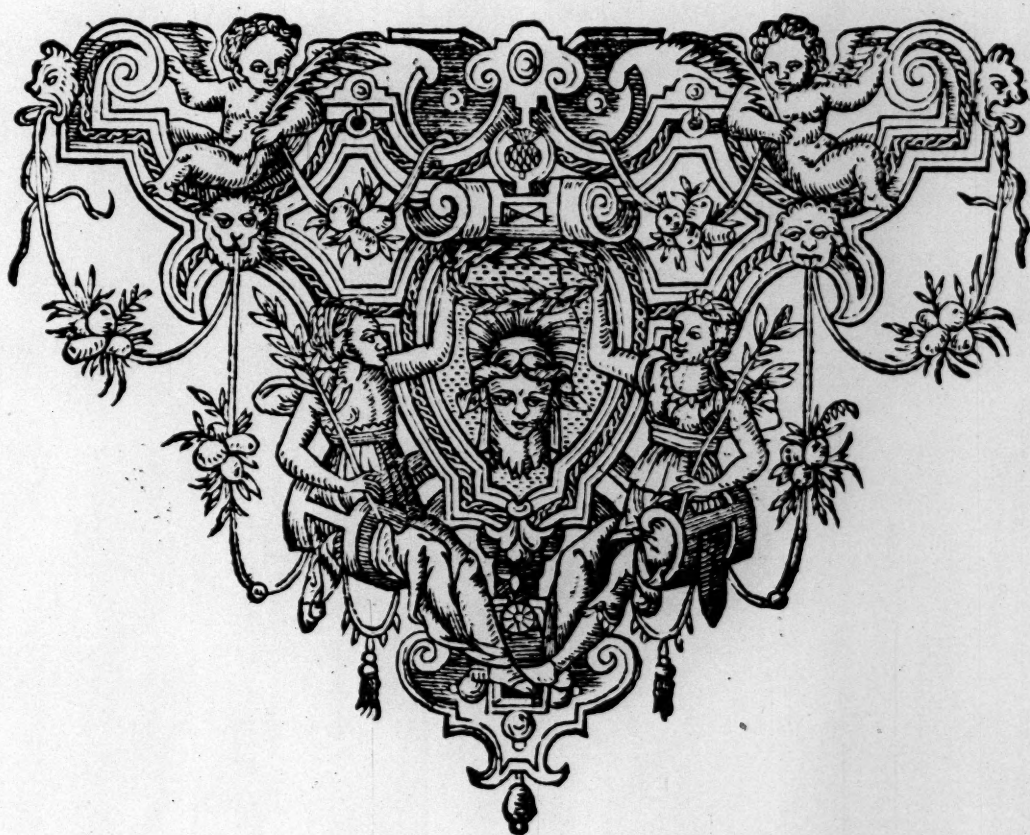
OF THE RECOGNITIN OF NOVELLE disseisin. CHAP. 36.

- Glanvil. lib. 13 c. 32.* **L**ast of all, it rests to speik of the recognition, anent Ejection and spuilzie (*called Novelle disseisin*)
- Lib. 2. c. 74. 13.* 2. Quhen anie man within the Kings assise, that is, within the tyme statute be the King, with the advise of his nobilitie (*the quhilk tyme is some tyme longer, and some tyme shorter*) dispoiselles ane other man, vnjustlie, and without decreit of ane judge, forth of his lands: he quha is ejected and dispoiselled hes the benefite of this law competent to him for his restitution.
- Inc. 2. par. 14. c. 79.* 3. In this recognition, na ellonzie hes place: for quhither the defender compeir the first day or not; the recognition fall proceed; because in this case, na man is spared be anie priviledge, either minor or major.
- Henr. 3. An. 9. c. 12.* 4. Likewise this recognition sould not be stayed, be reason of anie warant: For gif the defender committer of the ejection, confessis the ejection in the court; and calles ane warant thereanent: thereby the recognition fall cease, and he quha confelled and alledged his warant, thereby fall remaine in the Kings mercie (*and tine the pley*)
- Edward. 1. An. 3. c. 36.* 5. And thereafter the warant fall be summoned, and the pley fall be betwix him, and the defender quha called him for his warant.
- Rich. 2. An. 1. c. 9.* 6. And the defender quha is persewed, fall ay remaine in the Kings mercie; be reason of his vnjust and violent ejection (*confessed be him*)
- Stat. Alex. c. 8.* 7. Mairover, gif the persewer does not persew at the day of compeirance, his pledges fall be in the Kings mercie.
- Ius Norman. lib. 8.* 8. The like fall be done to the other partie defender, gif he is absent at the day of compeirance.
- Quon. Attach. c. 53.* 9. The paine of this constitution, is the Kings mercie.
- Supr. c. 28. 11.* 10. And mairover, the persewer quha hes proven the ejection, may effect coullie desyre, that command fall be given to the Schiref, to deliver to him sa mekill of the moveable gudes pertenand to the defender, or of the frutes of the land, quhilk was arrested be the Kings precept, as extendes to the summe of ten marks.
- Stat. 1. Rob. 1. c. 13*
- Stat. 2. Rob. 1. c. 12.*
- Al. Recognition. Inc. 2. parl. 5. c. 10.*
- Edward. 1. An. 6. c. 1.*
- An. 3. c. 24. c. 36.*
- An. 3. c. 25.*

11. In this recognition mention sould be made be the persewer in his clame, and also in the sentence of the Judge of the moucables, and of the frutes (*quhilks sould be restored to the persewer*) and gif the Schiref satifies him not, nor makes na provision thereanent, the complainer may raise the Kings brieve, and persew for the samine.

M

THE



IN MY DEFENCE

GOD ME DEFEND.



THE FOVRT BVKE: OF CAVSSES CRI- MINALL.

OF LESE-MAJESTIE.

CHAP. I.

Glouc. lib. 14

c. 1.

Edw. 1. 3. A. 1.

25. c. 2.

Rich. 2. A. 21.

c. 1.

Hen. 3. A. 26. c.

13. A. 27. c. 2.



ITHERTO CIVILE A-
ctions proponed in court, partlie
are exponed. Now rests to declare
and expone criminall mutes and
pleyes.

2. Quhen anie man is accused
or defamed (*suspected*) of the Kings
death, or of sedition against the Re-
alme, or the Kings hoist; in this case
ane certaine accuser compeirs, or
nane compeirs.

3. Gif na certaine accuser compeirs, bot onely publike fame
accuses him; he quha is suspected at the beginning of the brute
and fame, sall be^a saiffie attached be sufficient pledges, or sall be
imprisoned.

^a *Suretie.*

4. Thereafter the veritie of the mater sall be tryed before
the

the Justitiar, be sundrie interrogatours and answers made there-
to; and he quha is to be accused, be sundrie signes and conje-
ctures, some tyme makand for him, and some time against him;
be the law of the Realme, fall be punisshed, or fall be clenged fra
that crime quhilk is laid to his charge, simpliciter in all tyme
comming.

5. And gif anie man is fyled or condemned of that crime,
his judgement and punishment of his life and limme dependes
onely vpon the Kings benefite and gude will; as vse is in all other
pleyes of felonie and sedition against the Realme: swa that he
and his heires sould be perpetuallie forfaitured in all time cum-
ming.

Leg. Malc. 2 c. 12.

Quon. Att. c. 19.

1 sc. 1. parl. 1 c. 3.

1 sc. 2. par. 6. c. 14.

Mar. Regim. parl.

4. c. 8.

Stat. 1. Rob. 1. c.

34.

6. Gif ane certaine accuser compeirs, at the beginning of the
same and brute, he fall be attached to finde sure pledges that he
fall persew, gif he anie pledges hes.

7. Bot gif he can not finde pledges; in this case, his faithfull
promise is sufficient, as in all pleyes of felonie; in sic cases faith-
full promise is sufficient, that be over great severitie, others be not
terrified from sic accusations.

8. Securitie being receaved fra the persewer, that he fall per-
sew; the defender quha is accused, fall be attached be saif and sure
pledges.

9. And gif he hes not pledges, he fall be imprisone d.

10. In other pleyes of felonie (*and crimes*) he quha is accu-
sed vses to be lettin frie, he findand sufficient pledges for him;
except it be in the mure of man-slauchter, in the quhilk it is
otherwayes statute and ordained, to the feare and terrour of all
others.

11. Thereafter ane day is prefixed and assigned to him quha
is accused, at the quhilk day, lawfull essonzies sould be admitted
in their awin place.

12. At the last, gif the accuser propones and alledges, that
he did see, or that he knawes that it is proven anie way in court,
that he quha is accused, did imagine, or purposed to haue done
anie thing anent the Kings death, or anent sedition of his hoist;
or that he gaue consent, counsell or authoritie thereto; and of-
fers him readie to proue and verifie the same, conforme to the
consideration of the court. And the defender denyes the same
in court, against him: In this case, the pley may be decyded be

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singulare battell.

Quon. Att. c. 31

13. Bot it fall be in the election of the defender, quhither he will vnderly the hazard of battell, or to passe to ane gude assise.

14. It is to witt, that after that battell is waged in court, a-nent this pley; neither of the parties may eik or pair anie thing of the words spoken be them, in giving of the waddes, ilke ane to other; nor zit may they decline, or anie wayes passe fra that purpose. Quhilk gif they doe, they fall be esteemed and halden as vinquest and overcome, and fall be swa judged and condemned.

15. And the parties sould na maner of way be reconciled together, without licence of the King, or his Justitiar.

16. Gif the persewer is overcome and vinquest, he fall remaine in the Kings mercie; quhilk mercie, quhat it is, before is declared.

Vers. 5.

17. Gif the defender is overcome and vinquest, quhat dome he fall luke for, is said a little before; his moueable gudes fall be confiscate; and he and his heires forfaulted and dilheritted for ever.

OF THEM QVHA MAY ACCVSE.

CHAP. 2.

Glanvil. lib. 14. c. 1. **I**N this mute or pley of treason, anie frie man, major and of perfite age, is admitted to persew and accuse.

2. And he quha is accused, fall be attached in the maner foresaid.

3. Ane husband man als wa sould be admitted.

4. Bot ane woman sould not be permitted or suffered to accuse in anie mute or pley of felonie, bot onely in certaine cases, as fall be spoken heirafter.

IN QVHAT CASES MAY ANE MAN ACCV- cused decline battell.

CHAP. 3.

Glanvil. lib. 14. c. 1. **H**E quha is accused in sic pleyes, may declyne or refuse battell, be reason of ane manzie (or hurte of his bodie) or of his age.

2. His age quhereby he is excused, sould be thriescore zeares, or aboue that age.

3. Ane

3. Ane Manzie is called, the breaking of anie bane in his bodie, or the strikin in of his harnepan of his head, or be making thinne the skinne of his head, be scheavin away of the famine.

4. In this case, quhere battell is lawfullie declined be him quha is accused: he is oblissed to acquite and clenge himselfe be the judgement of God, that is, be hote iron, gif he be ane frie man; or be water, gif he be ane husband man, conforme to the condition and estate of the men.

FRAVDFVLL CONCEALING OF ANE
treasure.

CHAP. 4.

Glanvil. lib. 14.
c. 2.

QWhen ane certaine accuser compeirs in the pley, anent fraudfull hyding and concealing of ane hurde, or treasure, the forme and order of procelle shold be keiped, as is before said.

2. Be reason of the infamy of this crime, na man is oblissed to clenge himselfe be singulare battell.

3. Albeit he may clenge and purge himselfe be ane assise.

4. Except he quha is accused, hes confessed in court, or is convict, to haue found, or to haue receaved fra ane other, anie kinde of metall in the samine place, quhere the accuser alledges the treasure to haue bene found.

5. For gif he be convict heirof in judgement, because the presumption of Law, makes against him, he is oblissed to purge himselfe be law of the land (*be battell*) that he did finde na mair, nor receaved na mair from ane other man.

6. Touching the rest of the forme and order of this proces; the samine fall be deduced, as said is.

OF MAN-SLAUGHTER.

CHAP. 5.

QWhen ane man is accused for man-slaughte, the proces shall be ordered, and proceid conforme to the distinction and maner fore said (*anent the compeirance, or not compeirance of the accuser*)

Glanvil. lib. 14.

c. 3.

Iac. 3. parl. 3.

c. 42.

Iac. 5. parl. 3.

2. Bot it is to witt, that in this mure or pley, he quha is

c. 7.

M 3

accused

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accused, sould not be dimitted be finding of pledges; except, that be done at the Kings command, and be his benetite.

Mar. Regin. parl.

6. c. 13.

Exod. c. 21. 14.

Levit. c. 24. c. 17.

c. 19. 14.

Deutro. c. 19. 1.

Numer. c. 35. 16.

3. There is twa kindes of slauchter; ane quhilk is called murder, quhilk is committed quyetlie, na other man seing or knawing the samine, except onely the man-slayer and his complices; swa that incontinent after the committing thereof, na clamour, nor voice of the people followes or is raised.

4. Conforme to the law made anent accusation in this case, na man is admitted, bot gif he be sibbe, be reason of blude to him quha is murthered: Swa that he quha is nearest be blude to the stock, sall exclude him quha is farthest from all accusation.

5. Except murther be taken vp be dittay (*quhere there is na slauchter committed suddenlie* certaine accuser) in the quhilk case the King is persewer and follower, ay and quhill the mater be ended be dome and judgement, as said is.

Exod. c. 21. 13.

Numer. c. 25. 6.

Deuter. c. 19. 1.

6. The secund kinde of man-slauchter, is called simpill man-slauchter.

Iac. 1. parl. 6.

c. 89.

Hen. 3. An. 9. c. 34

7. Also, in this pley na accuser is admitted to proue the crime except he be conjoyned to the man that is slane, be consanguinitie, homage, or maisterhip (*that is, the cusin for slauchter of his cusin, the maister for slauchter of his vassall, quha made homage to him, or the Lord, for the slauchter of his servant*)

8. Mair over, it is to wit, that in the pley anent murther, or death of the husband, the wife may be admitted to accuse; because the man and the wife are but ane flesh.

9. And generallie it is trew, that ane woman sould be heard to accuse anie man for injurie done to her awin bodie.

10. It is in the election of him quha is accused, to vnderly the prufe of the woman, or to purge him be judgement, or ane gude assise of the crime quhereof he is accused.

OF VVILFVLL FYRE OR BVRNING.

CHAP. 6.

Iac. 1. par. 4. c. 75.

Iac. 5. par. 7. c. 118

Iac. 6. parl. 1. c. 33

THe crime of burning sould proceid, be treated and finally ended, conforme to the generall order and forme aboue said.

OF

OF ROBORIE, OR REIF.

CHAP. 7.

*Glanvil. lib. 14.
c. 5.*

THe crime of Roborie, with all speciall accessories intervenand therein, should be determed and judged before the Iustitiar, with fresh soyt and following, as fall be heirafter declared.

OF REVISSING OF VVEMEN.

CHAP. 8.

Revissing, is called ane crime, the quhilk ane woman alleges against ane man, affirmand her to be oppressed be him, violentlie contrare the Kings peace. *Glanvil. lib. 14.
c. 6.
Iac. 5. parl. 7. c.
118.*

2. The woman quha hes suffered sic violence, should incontinent, sa lang as the crime is recent, passe to the next towne, and there declare to honest men the injurie done to her, and the blude gif anie be drawen, in her face, or in her bodie, vnder her claiths, and also the rying of her claiths. *Edward. 1. An. 3.
c. 13. an. 13. c. 33
Henr. 7. an. 3. c. 2.*

3. Fra that place, be the Kings way, she fall gang to the principall Mare of that Schirefdome, or to the Toschoderach gif he can be found, and fall make the samine demonstration.

4. And there fra she fall passe with huy and cry to the chiefe Castell of that Schirefdome, within the quhilk the cryme was committed; and there she fall declare the haill proceeding of the trespassse.

5. Mairover, she fall propone that crime in the next Schiref court of that Schirefdome publicklie.

6. Last of all, complaint being made be her, before the Justitiar, as said is, the proces fall proceed.

7. Gif anie man is convict in this pley; judgement fall be given in sic forme and order, as said is, in the preceeding pleyes and crimes.

8. In this case, or in anie other touching injurie done to ane woman in her bodie, she may be heard to accuse anie man.

9. It is not sufficient, nor it is not our will, the trespassour fall marie, or take to his wife, that woman quhom he hes swa defyled; for then it should oft times happin, that men of servile condition

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condition shuld defile maist noble wemen, or maist noble men, to be defyled be ignoble wemen of servile estate; quherby the honest fame of them, and of their parents may be hurte.

10. Nevertheles, before anie dome or judgement be given, the woman quha accuses, and the man quha is accused, with licence of the King, or of his Justitiar, and consent of their parents, may marie other, and swa be reconciled together.

OF HAIMSUCKIN.

CHAP. 9.

GIf ane man will challenge ane other of Haimfuckin, it is necessare, that he alledge, that his proper house quhere he dwelles, lyes and ryfes; day he and nichtlie, is assailzied.

2. And swa he fall make ane lawfull soyt, because naman may challenge ane other of the crime of haimfuckin, bot in his proper and certaine dwelling house.

3. And mairover, he fall follow and persew his crime in the forme, as is vsed, anent the Revising of wemen.

OF REIF, REVISSING OF VVEMEN, AND Haimfuckin. CHAP. 10.

Quon. Ait. c. 19.

IT is to wit, that naman salbe heard to accuse ane other of Reif, Revissing of wemen, or of Haimfuckin, except he make ane lawfull soyt, in maner foresaid.

2. And gif he delayes be the space of ane nicht, to the effect, he may haue the counsell of his friends; and swa makes not fresh and recent persute; and that be proven against him, the defender fall be quite, and the accuser fall be in the Kings mercie.

OF HIM QVHA IS CONVICT OF LESE- majestie, and of the death of his over-lord.

CHAP. 11.

IT is statute be the King, with consent of the communitie of the Realme, gif ane man is convict, or justlie defamed of the Kings death, or of sedition against the Realme, or the Kings hoist; he fall vnderly and suffer judgement, as ane traitour; and his heires fall be forfeited and disherissed for ever, as said is, because

*Sup. h lib. c. 1.
vers. 4.*

cause sic sedition touches the Kings perione.

2. Bot gif he be defamed (*convict*) of the death of his over-lord, of quhom he halds his land in chief; he and his heires fall be perpetuallie disheriffed, of all the lands, quhilk he haldes of that over-lord, bot his heires fall not be disheriffed of other lands, quhilks he did halde of other over-lords, against quhom he hes done na sedition. *Quon. Att. c. 19.*

*THE HEIRE OF ANE MAN-SLAYER, OR OF
ane theif sould not be disheriffed for the trespass of the father.*

CHAP. 12.

THe heire of ane man quha hes committed slauchter, thift, or anie other felonie, not consentand to the trespassour, sould not be disheriffed. Bot he quha committed sic felonie, gif he is apprehended, fall be judged conforme to the law of the Realme; swa that for his fault, his heire fall incurre na skaith. *Iac. 6 par. 11. c. 50*

2. Bot gif the trespassour does flie away for sic crimes, and is fugitiue therefore, swa that he will not compeir, that justice may be done; his over-lord fall take in his awin hand and possession, the landes halden of him, ay and quhill he compeir in judgement, or happin to deccis, be entering in the way of all fleshe.

3. Swa that his heire, swa lang as he lives, and compeirs not, fall not be heard to craue or seik his lands perteining to him.

OF THE CRIME OF FALSET.

CHAP. 13.

THe generall crime of falsset, conteines vnder it sundrie speciall crimes. As false Charters or Writtes, false money, false measures, false wechts, and other sic like, quhilk conteines sic falsset, for the quhilk ane may be accused; and being convict, may be condemned. *Glanvil. lib. 14. c. 7. Iac. 4. par. 4. c. 47. c. 48.*

2. The forme and order of accusation in all thir crimes is plane and manifest be that quhilk is spoken alreadie. *Iac. 5 par. 7. c. 124. Iac. 6. par. 1. c. 19.*

3. Bot gif anie man is convict anent false writ, ane distinction is to be observed, quhither it be the Kings Chartour, or the chartours of his over-lord, quha makes the samine, or of ane private man. *Mar. Regin. parl. 9. c. 70. Henr. 7. An. 9. c. 14. Elizab. an. 5. c. 14.*

4. For

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4. For gif it be the Kings Chartour, or the over-lords; he quha is convict thereof before the Justitiar, sould be condemned be judgement, as ane traitour against the Kings Majestie.

5. Gif it be ane Chartour of ane private persone; then it fall be mair gentlie delt with him, quha is convict in judgement, as vse is in other les crimes of falsset.

6. Quhereof the judgement and condemnation consists, in the cutting of members, or tinsell of ane member (*of the bodie of the trespassour*) except the King remit the samine.

OF ANE DEFAMED OF THIFT NOT HAVAND pledges. CHAP. 14.

Stat. Alex. c. 13.

Stat. David. 2.

c. 17.

1ac. 6. parl. 11.

c. 97.

GIf anie man is defamed of thift in ane province (*Schiref-dome*) and is found without ane maister, refusand to giue pledges for him; it sould be done with him, as with ane proven theif.

2. Mair over, gif ane trew and honest man, passand be desert places, quhere na man dwelles, or ane place full of tries or wods, does see ane man quhom he knowes well, leadand ane horse, ane oxe, or sic other thing, quhereof he knowes not the maister, and thereafter is requyred be the awner of the horse, or other thing, quha did tine and lose that thing, gif he knowes any thing thereanent.

3. Gif he answers, that he saw sic ane thing in the hand, and possession of sic ane man; he fall make faith, and sweir that to be trew quhilk he sayes; and the other man fall seik the theif.

4. Bot gif the other man alledges that he is arte and parte of that thift, and will proue that, conforme to the law of the land; he quha is challenged, fall defend himselfe be battell, gif he be ane frie man.

OF ANE THEIF TAKIN REID HAND *with possession of the thing stollen.*

CHAP. 15.

1ac. 6. parl. 1.

c. 21.

Exod. c. 20. 15.

c. 22. 21.

Levit. c. 19. c. 21.

GIf ane man steilles cattell, or anie moueable gudes, and the shout and cry of neighbours follow him, and he be taken with the thing stollen in his possession: Or gif in sight of the neighbours followand him, he does leaue behinde him, the thing thifteouslie

thifteouslie stollen: Justice fall be done vpon him, in sic maner, as vpon ane proven theif.

OF THE LAVV OF BVRDINSECK.

CHAP. 16.

FOR Ybur-panansecas, that is, for the thift of ane Calfe, or of ane scheip, or for sa meikill meate as ane man may beare vpon his back; na court sould be halden (*to punishe the doer heirof as ane theif*)

2. Bot he in quhais land the theif is taken; fall haue of him ane scheip, or ane kow; and mairover, the theif fall be scurged.

3. Becauld it is statute, that na man fall be hanged for ane les fault then for twa scheip; quhereof ilke ane is worth saxtene pennies.

OF SLAVCHTER COMMITTED FOR RE-
venge of trespassours justified be the law.

CHAP. 17.

IF justice is done vpon anie man, be judgement of water, or of irn, or be the law of the Realme, for thift committed be him, or takin with thift, and slane; and his parents and friendes, in revenge of the law (*of him quha is punished be the law*) slayes him quha brocht the trespassour to the law. *1ac. 2. par. 6. c. 15.
Quon. Act. c. 18.
Stat with. c. 4. c. 5
Stat. David. 2. c.
44. c. 50.*

2. The King fall haue full richt of sic men-slayers, to punish them as plane breakers of his peace, without anie mercie or remission.

3. Except remission be given with consent of the progenie, and friends of him quha is vnjustlie slane.

4. And gif the King grants peace to the slayer, without consent of the nearest friends of him quha is slane; nevertheles, his friends may seik revenge lawfullie of him, or of them quha slew their friend.

OF HIM QVHA FALLIS FRA THE GALL-
lous

CHAP. 19.

IF ane theif is hanged vp vpon the gallous, and falles down, fra the samine, he sould be quite thereafter of that thift.

2. Bot the hang-man, quha sould haue hanged him, fall make fine with the King; saifand to him his life, his members, and his

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his heretage, albeit that be ane exceiding great fault.

OF THE VERGELT OR RANSON OF ANE
theif. CHAP. 19.

THE Vergelt, or Ranson of ane theif, throw all Scotland is
threttie kye; and ane zoung kow, quhither he be ane frie
man or ane servant.

OF ANE HORSE CHALLENGED AS STOL-
len. CHAP. 20.

IF anie man is challenged for ane horse, and he with quhem
the horse is founde, alledges that the horse was lenned to
him: he quha is challenged sall haue respit and continuation, gif
he please, to ane certaine day, to produce his warant at ane cer-
taine place.

2. And then the warant sall answeere for that horse, as his awin
proper gudes.

3. Bot gif ane man of gude brute and fame, borrowes ane
horse to ryde to the Kings hoist, and that horse is challenged; that
man sall haue respit and delay, vntill he returne to the Schiref-
dome, in the quhilk he alledges the horse to haue bene lenned
to him.

4. And within the first day, and the nicht followand, he sall
restore the horse to the lenner.

5. And the lenner vpon the morne after that first day and
nicht, sall answeere to the challenger, for that horse, as his awin
proper horse.

ANE THEIF NOT TAKIN WITH THE
fang, sall purge himselfe. CHAP. 21.

WHEN anie man is challenged of thift, and na fang is found
with him; and the challenger offers na probation against
him, he sall acquite himself be the oath of twentie seven men, and
thrie Thanes.

2. And gif he purges himselfe this way, he sall be atfoilzied
fra all petition quhilk the King may propone against him.

HE

HE QUHA TAKES ANE POYNDE VNLE-
scmelie, is gilty of thift: Of the manifestation and quantitie
of poyndes. CHAP. 22.

GIf ane takes ane poynde for debt, within ane other mans land, without licence of him, or of his Baillie, and cumand and gangand with the poynd, does not manifest the samine: and being followed be the awners of the gudes poynded, is taken and apprehended; justice fall be done vpon him, as ane man taken with ane fang of thift.

2. Becaulc, quhen anie man sends his servants to ane other mans land, to take ane great number of eavers or beasts, as ane poynd: they quha hes taken the poynd at their furth comming out of the land, quhere the poynd is taken, sould make manifest the cattell taken before witnes there present: and sic like to all them quha meits them be the way.

3. *Item*, quhen ane takes ane poynd without licence, and brings the samine away forth of ane other mans land, without his licence; albeit he manifests and shawes the poynd, he quha tuke the poynd, fall pay ane vnlaw to his maister, fra quhom the samine is taken.

4. And pledges being found, the poynd fall be sent back againe, to the place quherein they were first taken: And he quha tuke the poynd, gif he please, fall come to that place, and craue his debt.

5. Mairover, gif he vpon quhais land, the poynd is taken, will challenge him quha tuke the poynd, that he hes taken moe cattell nor he sould haue taken: gif the taker of the poynd hes done conforme to law, and proue the samine be witnes, he fall be assoilzied fra that challenge.

6. Bot gif he hes done otherwise, against the law, he must answer to the challenger, anent his clame.

IT IS NOT LESOME TO SLAY ANE THEIF
without shout or clamour. CHAP. 23.

Exod. c. 22. 7.

Stat. 2. Rob. 1. c.

GIf ane man apprehends in his house ane theif, with the fang
of the thift, and quyetlie slayes him; swa that he rattes na
clamour nor soyt thereanent, nor shawes not the samine to the
Kings Baillie; the friends of the man quha is slane, or the Kings
Baillie

30.

Iac. 6. parl. c. 21

H. 8. An. 24

6. 5.

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Baillie (*gif the friends can not be found*) may accuse him as the slayer of ane man vnjustlie.

2. For gif ane man findes ane theif with the fang, doand him skaith; incontinent he sould raise the blast of ane horne vpon him; and gif he lies not ane horne, he sould raise the shout with his mouth; and cry lowdly that his neighbours may heare, and he fall shaw that to the Kings Baillie.

3. And he fall presse, gif he may, take and apprehend the theif; and gif he is taken, he fall be halden fast, vntill the Kings Baillie and the Barons conveine; and there he fall be judged according to his doings and demerits.

4. Bot gif the theif will not tarie; bot flees and runnes away; It is lesome and permitted be the law of the Realme, to slay him fleand away; and put vp his head vpon the nearest gallous.

OF ANE SLANE, BE ANE VPON horse rydand.

CHAP. 24.

*Jac. 5. par. 2. c. 93.
parl. 6. c. 89.*

QWhen ane rydand vpon horse, passeth throw the towne, and with his horse feit strampes to the earth ane man gangand before him, swa that thereby he deceitless; he quha rydand commits this fault, or suffers that samine to be done, fall pay Cro and Galnes (*assythment*) as gif he had slane him with his awin hand.

2. *Item*, gif ane man rydand, slayes ane man behinde him, with the hender feit of his horse; na assythment fall be given for his slaughter, bot the fourt feit of the horse, quha with his hieles did straik the man, or the fourt part of the price of the horse.

3. Quhilk satisfaction sould be given to the friendes of him quha is slane: and gif they refuse to receaue it, the samine fall be given to the Schiref.

4. Because it is statute, that all men rydand vpon horse, sould keip his horse forder feit fra doing anie skaith.

5. And all men gangand or standand behinde ane horse, sould eschew the horse before them, that they behinde him receaue na skaith be him.

6. Because na man rydand vpon ane horse, sould keip or preferue

preserue them quha goes or standes behinde his horse.

OF HIM QVHA IS TAKIN BE REIFERS,
and escapes. CHAP. 25.

HE quha is takin be thieues, als soone as he may escape, and be frie; he sall with all diligence, make soyt fra ane towne, to ane other, situate vpon the Kings way, to the Kings Castell; within the Schirefdome quhere the reif is committed, in the samine forme and order, as is said of Revilling ane deforced woman.

OF THE ORDER OF ACCVSING OF
malefactours, for crimes.

CHAP. 26.

GIf twa men be accused, the ane as principall theif, the o-
ther as giving command to the committing of the thift: *Quon. Att. c. 83.*
fist he quha is accused as principal theif, sould be pleded, and dis- *Stat. David. 2.c.*
cussed before him quha commanded the samine to be done. *29.*
Edward. 1. An. 3.
2. And the like is to be vnderstand of the principall theif, and *c. 14.*
him quha is resetter.

3. And gif the principall theif is clenged and made quite; he quha is defamed as commander, or resetter, sall be frie, without the eath or deliverance of any assise.

4. And swa it is manifest, that the commander, or resetter sall not be charged to answer, vntill the principall doer be fyled, and convict be ane assise.

DEFORCEMENT IN POYNDING, AND
the pleyes of the Crowne, perteynes to the Kings court
allanerlie. CHAP. 27.

IT is to wit, that na Schiref, Kings Baillie, nor Baron, hes power to halde court, of deforcement committed anent poyn-
ding; nor of the pleyes perteyning to the Crowne, without spe-
ciall commission or command of the King.

2. This mute or pley receaves na delay, because the cavers
(or beastes) poynded, that is, the dombe beastes sould not be
lang detained.

The fourt Buke

THE MALEFACTOUR ASSOILZIED

Jac. 1. par. 13. c.

140.

Jac. 6. par. 11. c.

76.

at the instance of the partie, may be accused be
the King.

CHAP. 28.

GIf ane complaint of life and limme, betwix the persewer and defender, proceids before the Justitiar, or Schiref: swa that the persewers claime is repelled, be reason of ane exception proponed be the defender: Nevertheles, the Justitiar or Schirefe, be reason of his office, may take inquisition be ane gude assise, anent the deid done be the defender; and gif he is found giltye, judgement fall be execute against him precesslie.

THE PAINIE OF PERJVRIE.

CHAP. 29.

Of witnes perjur-
ed.

Exod. 20. 16. c.

23. 5.

Levit. 6. 29. 16.

Dent. c. 5. 20.

GIf anie man is (*convict as*) mensworne, vpon the halie Evangel, or anie other halie thing, to condemne ane innocent man, for feid or favour of anie man, in accusation or testimonie, he fall be excluded, and want the comfort and societic of all christian men:

2. Ay and quhill before God and men, conforme to judgement, he make satisfaction, and pay aucht kye to the King.

3. Thereafter he fall never be heard to be witnes, or to make faith, bot fall be halden and esteemed as ane man of na credit.

4. For be the law, it perteines to the King, to clenge the land of mensworne men.

OF THE EXPENSIS OF THEM QUHA attaches trespassours.

CHAP. 30.

Vid. Jac. 3. par. 14
c. 102.

Leg. Malc. 2. c.

31.

THey quha attaches malefactours, fall not be vertew of their attachments, intromet, or carie away anie gudes or geir pertenand to him, quha is attached. Bot the Lord of the village, or his steward or Baillie, fall susteine them reasonable, ane day and ane nicht, vpon the gudes of him quha is attached.

OF THE MARCHET OF VVEMEN

CHAP. 31.

IT is to wit, that conforme to the law of Scotland, the marchet of ane woman, noble or servant, or hyreling, is ane zoung kow, or thrie schillings: And the richt dewtie to the sergent thrie pennies.

2. And

2. And she be the dochter of ane frie man, and not of the Lord of the village; her marchet sall be ane kow, or sax schillings; and for the sergents dewtie, sax pennies.

3. *Item*, the machet of the dochter of ane Thane, or Ochier, twa kye, or twelue schillings; or the dewtie to the sergent, twelue pennies.

4. *Item*, the marchet of the dochter of ane Earle perteines to the Queene, and is twelue kye.

OF ANE SLOVTH-HOVND FOLLOWV AND
thiefes. CHAP. 32.

NA man sould perturbe or stay ane sleuth-hound, or men passand with him, to follow thieues, or to take malefactours.

2. Na man sould perturbe or stay men, quha without ane hound, followes with the gudes stollen fra them.

3. Quha does the contrare, and is convict thereof before the justice, sall be judged as ane resetter of the malefactour.

OF HIM QVHA FOLLOVES ANE THEIF
with ane hound. CHAP. 33.

Gif ane man with ane sleuth-hound, followes the foot-steps of ane theif, or of ane stollen beast; it is not lesome to him, to enter within anie mans land, without licence of the Lord thereof. And gif the theif happinnes to be taken with licence of the Lord of the ground, with the gudes stollen, or without them, to the valour of fiue pennies; incontinent justice sould be done vpon him.

THE PAINE OF HIM QVHA IS CON-
vict of felonie. CHAP. 34.

Gif anie man is convict in the Kings court of felonie, or confessis the samine judiciallic; be the law of the Realme he sall be disherissed: And his lands sall remaine as elcheit with his over-lord. L. b. 2. c. 55.
Stat. 2. Rob. 1. c. 21
Quon. Att. c. 13.

2. And gif he halds of the King, all his lands and moueable gudes, quherever they be found, sall perteine to the King, and never to be restored againe to his heire.

3. Gif he halds of ane other over-lord then the King; he quha is out-lawed, or convict of felonie: in that case all his moueables sall perteine to the King; and aliwa his lands sall perteine to him, for the space of zeare and day.

The fourt Buke

4. And the zeare and day being bypast, his land as escheit, fall returne to his over-lord, as ane parte of his fie and heretag

5. The fault of the sonne, or of the heire of anie man, sould not be ane cause of disherissing of the father, the brother, or of anie other man, bot onely of himself.

OF THE RESTITVTION OF FELONIS AND out-lawed men. CHAP. 35.

Lib. 2. c. 6.

GIf anie man be the law of the Realme is out-lawed; and thereafter be the Kings grace and favour is restored to his peace; be reason of that restitution, he may not seik anie other lands, then these quhilk he did halde of the King, or his Prince, and quhilk he tint, be reason of his rebellion: Because the King may remit the crime, and the rebellion, bot he may not discharge other mens richt.

CRO OR ASSTHMENT FOR SLAVCHTER. CHAP. 36.

*At the chaptours
untill the end of
this buke, are not
authentick, albeit
they (except the
last) are written
in auld bukes, &
are conforme for
the maist part to
the auld lawes of
Englind, as writs
William Lam-
bert. the pag. 71
And to the lawes
of Normandie.
lib. 12. c. 26.*

IT is statute be the King, that Cro of ane Erle of Scotland is seven tymes twentie kye; or for ilk kow, thrie pieces of gold called Ora.

2. Item, the Cro of ane Earles sonne, or of ane Thane, is ane hundreth kye.

3. Item, the Cro of the sonne of ane Than, is thriescore sax kye.

4. Item, all quha are inferiour in parentage, are husbandmen, (or zeomen) And the Cro of ane husband man, is saxtene kye.

5. Item, the Cro of ane married woman, is les be the thrid parte then the Cro of her husband.

6. Item, gif she hes na husband, then her Cro is als great as the Cro of her brother, gif she anie hes.

7. Item, the Cro, Enach and Galnes of ilke man, are like in respect of their wiues.

OF SLAVCHTER COMMITTED WITHIN the Kings peace, or others. CHAP. 37.

GIf anie man is slane within the Kings peace, or others; the slayer fall pay to the King therefore, nine times twentie kye.

2. Gif ane man is slane not within the Kings peace, bot within the peace of ane Earle; the committer of the slauchter fall pay to the

the Earle, foure times twentie, and als ten kye.

3. *Item*, gif ane man is slane within the peace of the sonne of ane Thane, to him perteines fourtie kye.

4. *Item*, gif ane man is slane in the peace of the Nephoy of ane Thane; to him perteines twentie kye, and twa partes of ane kow.

DE KELCHYN.

CHAP. 38.

I*tem*, *Kelchyn* of ane Earle is thriescore sax kye, and halfe ane kow.

2. *Item*, *Kelchyn*, of ane Earles sonne, or of ane Thane, is fourtie foure kye, and twentie ane pennies, and halfe of ane halfe pennie.

3. *Item*, the *Kelchyn* of ane Thanes sonne, is les be the fourt parte then his fathers; and is threttie kye, eleven pennies, and thrid parte of ane halfe pennie.

4. Ane husband-man lies na *Kelchyn*.

5. Gif the wife of ane frie man is slane, her husband sall haue the *Kelchyn*, and her friend sall haue the *Cro* and *Galnes*.

6. *Item*, gif the wife of ane husband-man is slane; the Lord of the land quhere she dwelles, sall haue the *Kelchyn*; and her kinsmen sall haue the *Cro* and the *Galnes*.

OF THE SCHEDING AND PRICE OF
blude. CHAP. 39.

THe blude shed out of the head of ane Earle is nine kye.

2. *Item*, the blude of the sonne of ane Earle, or of ane Thane, is sax kye.

3. *Item*, the sonne of ane Thane, thrie kye.

4. *Item*, of the Nephoy of ane Thane, twa kye and ane halfe of ane kow.

5. The blude of ane husband-man, drawen vnder his breath, is les be the thrid parte, then all the paines foresaid.

6. *Item*, the richt of ane woman not married, sall be conforme to her brothers, gif she anie hes.

7. *Item*, in all persons foresaids, blude drawen vnder the end, or mouth, is thrid parte les, then drawen aboue the end.

8. All other and fundrie things, quhilk occurres in Barone courts, are determed at the discretion and will of the Lord of the court,

Stat. wilh. 6. 20.
Ezob. 21. 15.

The fourt Buke,
court. Except Birlaw courts, the quhilks are rewled be consent of
neighbours.

OF THE PRICE OF BLVDE AND
injuries. CHAP. 42.

Of iniuries.

Exod. c. 21. 18.

Levit. c. 24.

Levit. c. 25. 11.

BE the law of *Scotland*, for the life of ane man, ninetymes
twentie kye.

2. For ane fute, ane marke.
3. For ane tuth, 12. pennies.
4. For ane wound of the lenth of ane inche, 12. pennies.
5. For ane strake vnder the eare, saxtein pennies.
6. For ane strake with ane batton, aucht pennies; and gif he
quha is striken falles to the earth, saxtene pennies.
7. *Item*, for ane wound in the face, he quha giues the sa-
mine, sail pay ane peice of golde, that is, ane Image of golde.
8. *Item*, for ane broken bane, fiue *ora*.
9. For ane wounde vnder the claiths, twelue pennies.
10. For ane wound before the sleiue, saxtene pennies.
11. For ane visibill wound, except in the face, fiftene pennies.
12. For ane wound aboue the end, fiue shillings.
13. Vnder the end, fourtie pennies.
14. For ane strake with the fute, fourtie pennies.
15. *Item*, for ane straik with the steiked neif, twelue pennies.
16. *Item*, anent the straik with ane palme of the hand, for ilk
finger, twelue pennies.
17. For shedding, or drawing of blude, twentie fiue shillings;
bezond the Scottis sea (*vpon the south side of the water of Forth*)
and vpon the north side of the samine sea or water, sax kye.
18. Bot in these cases, vse and conswetude sould be observed.

QVONIAM



IN MY DEFENCE

GOD ME DEFEND.



QVONIAM AT TACHIAMENTA.

OR

THE BARON LAWES.

OF ATTACHMENT, QVHAT IT IS, BE QVHOM,
how, and in quhat causses, it sould be made.

CHAP. I.

*This treatise is
Authenticke. Lac.*

1. parl. 3. c. 54.

Lac. 3. parl. 14.

c. 115.

*And the comif-
sion given be*

Queene Marie a-

rent the printing

of the acts of par-

liament. 1566.



ECAVSE ATTACHEMENT
is the beginning and originall of
pleyes, of *wrang* and *unlaw*, and of
others, quhilks are perfewed be sic-
ker bourgh, and be sure pledges:
Therefore we must begin first at
Attachments.

And first it is to be vnderstand;
quhat is ane *Attachment*, be quhom
it sould be made, and in quhat form

and maner.

2. Attachment is ane lawfull band, be the quhilk the partie
defender, is constrained to stand to the law, and to answer ju-
dicialle, to the partie compleand vpon him in forme of law.

3. Attach-

Quon. Attach.

3. Attachment should be made by the Judges, or their sergeants, presented and sworn in court: For sic should be attachers, at command of the Judge, when it is necessary to attach sic men, as are fugitive and disobedient to the law.

4. It is to wit, that attachments are made diverse wayes; for some time, attachment is made upon the gudes and geir of the defender; as in pleyes of debts, or of conventions, or of moveable gudes.

5. For the moveable gudes of the defender, should be first attached, and arreisted, until he finde securitie by pledges, to compeir and answer to the complainer; and then the arrestment should be lowsed.

6. Sometime arrestment should be made upon the bodie of ane man; as in pleyes of transgressions (*or crimes*) as when ane hes wounded, or hes beaten, or doing ane other man; in the quhilk case, he shuld be attached in his bodie, and not in his gudes.

7. Or gif he is fugitive fra the Judge, and will not suffer to be attached in his bodie; in that case, his gudes shall be attached by the Judge, until he compeir and suffer bodelie attachment, and also finde sufficient securitie to the Judge, that he shall compeir, and answer to him, quha complains upon him.

8. And swa in the beginning of the pley, of all the foresaid actions, attachment should be asked (*and made*) and the beginning should be made thereat; that the partie complainand, may lawfullie intend and persew his complaint.

OF SUMMONS.

CHAP. 2.

After that the attachments are made, the parties should be summoned. And therefore it is to be knawen, quha is ane summoner, be quhom it should be made and execute, quhere and quhen.

2. Summons is ane warning (*and declaration*) of ane certaine day and place, betwix parties, to ane lawfull day.

3. In mutes or pleyes of wrang and vnlaw, ane lawfull day is fiftene dayes.

4. Summons should be made and execute by sergentes, admitted and sworn in court judiciallie, as said is, and be nane others.

THE

THE FORME OF SUMMONS AND

witnes.

CHAP. 3.

IN all the actions foresaids, quhilks are pleaded be *wrang* and *unlaw*, for moveable gudes, the summons sould be made at the dwelling house of the defender, quhere he makes residence, and in na other place. *Iac. 1. parl. 1. c. 112.*
Iac. 5. parl. 6. c. 75.

2. For the summondour and witnes with him, sould come to the dwelling house of the defender, and summon him to compeir at ane certaine day, and place, before the Baillie, of sic ane Lord, to answer to sic ane man, vpon ane certaine complaint, that is, of ane pley of land, or of debt, or of transgression; that the defender may vnderstand generallie, quhereanent he sall pley.

3. And the summonder sal haue with him twa witnesses, quha sall beare leill witnelling, that they heard and saw all things foresaids.

4. Bot in pleyes of lands and heretage, or quhen dew service of lands is asked and craved; or quhen tennents or vassallis are charged to shaw their Chartours or haldings, ane other forme of summons is to be vsed and observed.

5. Because sic summons sould be vsed at the ground of the lands, quhereof sic things are craved; and not at the place quhere the tennents dwelles.

6. And sould be made before witnes, as said is. And gif the tennents haldes of ane Baron, the witnes sould be of that samine baronie: And gif the Baron, or the Kings Baillie is summoned, the witnes sall be of divers Baronies.

7. And the day of compeirance assigned to them, sall be sax oukes: and in summons, and pleyes foresaids, attachements hes na place, bot summons onely.

ESSONZIES AND DEFAULTS MADE

be the defender.

CHAP. 4.

THe parties in the pleyes of *wrang* and *unlaw*, sould compeir at the day assigned to them (*in the summons*)

2. Bot the defender, gif he please, may elsonzie himselve thrie times, and sould finde ane pledge for ilke elsonzie.

3. And after the thrie elsonzies, may make thrie defaultes, quhilks

Quon. Attach:

quhiks are suffered for profite of the court.

4. And for ilk default, ane disires or poynd sould be taken, to be entered at ilk court, vntill the fourt court.

5. And the persewer may modifie his expensis, in absence of the defender, quhen he makes his defaults.

6. And at the fourt court, thrie vnlawes may be decerned, for his thrie defaults.

7. And gif the defender compeirs not at the fourt court; the persewer sal recover his liquidat expensis be decret of the Judge.

OF THE DEFENDER COMPEIR AND at the fourt court. CHAP. 5.

GIf the defender compeirs at the fourt court; and saifes his defaults, he fall not be vnlawed; bot he fall aniwere to the clame of the persewer proponed against him.

2. And gif the pley is ane action for debt; the persewer fall craue and aske the samme fra the defender, be the words of the law, clamand fra him ane certaine debt, for ane certaine cause, namand ane certaine day, and zeare, according to the nature of the debt. Bot in pleyes of debt, the nomination of the place (*quhere the debt was contracted*) is not meikill regarded.

3. Bot in pleyes of transgression it is necessari, that the complainer nominat in his clame, day, place and zeare.

4. And gif the persewer hes his probation, he fall say in his clame, that he is readie to proue the samme, at day and terme.

5. And gif he hes not his probation, the defender denyand the debt, he fall acquite himselfe at the next court, be his awin eath, and be the eathes of five men, sweirand with him.

6. For he fall compeir at the next court, and five men with him, not suspect to the other partie persewer; because the persewer faillies, and hes na probation against him.

7. And first he fall make faith, that he is not oblisid to the persewer in that debt, quhilk is craved fra him: and thereafter he fall sweare that he brings them with him, to make and sweare ane leill and trew eath, and not ane false eath; and they fall sweir that his eath is trew and not false.

OF

OF ANE DEFAULT MADE BE THE
persewer. CHAP. 6.

GIf the persewer makes ane default; the defender may craue proces anent his default (*and seik protestation*) and fall passe quyte and frie fra that summons; bot he may be summoned againe, for that samine thing and cause.

2. The like form and order may be observed in other pleyes, and alsua in pleyes of transgressions.

PAYMENT OF DEBT DECERNED
be decreit. CHAP. 7.

GIf the persewer recovers his debt, or money; the Judge sal take ane pledge fra the defender, quha succumbed in pley, to pay the debt, with the skaiths taxat and liquidat in the persewer's clame, to the persewer, within space of fiftene dayes.

2. And gif he refuses to finde ane borgh, he may compel him to doe the samine, be distres, or poynding.

3. Gif the debtour confessis the debt, and is not valliabile in gudes and geir; to pay the samine; he fall acquyte himselfe be his awin eath, that he hes not in frie gudes and geir, aboue the valour of five shillings and ane plack. And alsua he fall sweare, that he fall pay the debt thereafter as he may wone and purches it; reservand to himselfe his necessarie sustentation, quhereby he may liue.

Stat. Wilh. c. 173

HOVV THE DEFENDER MAY BE RE-
pledged fra ane court to ane other.
CHAP. 8.

GIf the defender desires to be repledged to his Lords court, the Lords Baillie sould be present, and haue in his hand his Lords power, to that effect; quhilk gif he hes not, the defender fall not be repledged.

2. And gif his Lord hes moe courts nor ane, the Baillie fall nominate ane certaine court, and the place of the court, and quhere he makes his residence.

3. And gif the defender giues ane plane answer to the persewer, be denying preceissie the haill clame; he fall remaine in that court, vntill the end of the pley.

O

4. And

Quon. Attach.

4. And gif he is repledged to his Lords court, he fall leaue behinde him (*in the court, fra the quhilk he is repledged*) ane pledg called *Culreach*, quha fall be bound and oblited, that justice fall be done against the defender in his Lords court, to the quhilk the defender is repledged.

5. At the samme tyme, the Bailie fall assigne to the persewer, ane certaine lawfull day, at the quhilk he may compeir in the Lords court, to persew his clame, as said is, swa that the persewer finde to the Baillie ane pledge, that he fall compeir that day and persew.

6. Gif his Baillie, or his Lord faillies to doe justice that day, conforme to the law, to the persewer; and that be proven be certaine witnes of divers Baronies, quha wer present; the Lord fall tyne his court, for ane zeare and ane day; and the samme fall be in the Kings hands.

7. And the defender fall returne to the first court, fra the quhilk he was repledged, and fall answer to his partie persewer; or else his *Culreach* fall make answer for him.

HOVV ANE MAN MAY TYNE HIS COVRT. CHAP. 9.

ALswa, ane Lord may tine his court for ane zeare and day, gif he halds his court in tyme forbiddin be the law, that is, after the Kings peace is publicklye proclaimed in the Fair, or before Zule (*the feast of the nativite of our Lord*) or in Harvest, or before the Schirefs thrie heid courts.

2. Except the court quhilk is halden anent the Kings brieve of richt; quhilk be the law may be continued all the haille zeare, fra fiftene dayes to fiftene dayes.

CHALLENGE OF CATTELL. CHAP. 10.

QWhen ane man challenges any thing, as ox, kow, horse, alledge and that thing to haue wavered away fra him; that thing fall be arrested be the Judge, be finding ane pledge, to be entered in the court, to the soyt of the challenger, and fall be latlen be borch (*put under caution*) to the possessor thereof, to ane certaine lawfull day.

2. And quhen that thing is entered in court be the defender, and is challenged be the persewer, as ane thing wavered fra him,
ane

ane certaine space, and vnjustlie deteined, and with haldin fra him; and is readie to haymhald the samine (*to proue it to be his awin haymhald proper beast*) and the defender alledge his warant, he fall haue ane lawfull day to produce him.

3. Gif he alledges that his warant dwelles bezond *Forth*, the space of sax owlkes fall be given to produce him.

4. And quhen he hes produced his warant at the day assigned to him; he fall be quite of the challenge of that thing, and the warant fall answere, as he sould haue answered.

5. And swa fall be done, vntill the thrid warant, and na farther; and the thrid warnt, fall answere preceisslie to the challenger. *Lib. 1. c. 23.*

6. And gif the defender hes na just cause; to reteine that thing; the challenger fall haymhald that thing, as his awin. And gif it be ane beast, ane buke being placed betwix the hornes of the beast, or vpon his forehead, and he and his witnes, at the least twa, fall sweare that, that beast did waver away from him, as he affirmed in his clame; and that he was not given; nor sould be him to any man, in any maner of way.

7. And gif the defender failzies to produce his warant, at the day assigned to him; he fall tyne and amit the thing challenged; together, with the damage and skaiths challenged.

8. It is to wit, that he quha is called as warant in ane court, fall remaine and pley in that samine court, vntill the end of the pley; and na man may desire to repledge him, quha is called for warant, to anie other court.

OF ANE DISTRES OR POYND TAKIN
for debt denyed. CHAP. II.

QWhen ane complaines to the Schiref, that he is distrenzied; or poynded vnjustlie for ane debt denyed, and finds borgh to persew therefore; the Schiref fall deliver his distrettes (*or poyndes*) to him to borgh (*that is, he fall lat them to him to borgh*) that he fall enter them in the Kings court; and fall persew him quha tuke the distres; and the defender fall be attached to compeir and answere.

2. And the distres (*or gudes poynded*) fall remaine in the possession of the complainer, vntil it be discutted, quhither he is lawfullie or vnlawfullie distretted (*poynded*)

3. Bot it is ane question, gif the maister or Lord of the other

Quon. Attach.

partie defender, may repledge his man fra the Kings court, to his awin court?

4. It is answered, that he may not. For seing the King hes caused deliverance to be made to the complainer, of the geir poynded: And alswa seing the defender had libertie to gang to the Kings Baillie, and pley anent the restitution of the poynd; he is obliged, to end finalle that pley before him (*and may not passe to ane other Judge*)

OF ANE THEIF, HIS GYDES, AND WIFE. CHAP. 12.

Stat. with. c. 19.

IN ane mure of thift, quhen ane challenges ane other, conforme to the words of the law, taxand, and modifiand his harmes, and skaiths, to ane certaine quantitie; the defender may deny thift, and all that touches life and lin. me.

2. And it is lesome to him to cheise and passe to ane assise, gif he please, to decyde and proue, that he is faithfull; or to defend him be his awin hand (*be singular battell*)

3. In this case, it is necellare to him, to finde sufficient pledges, to answere to the complainer, anent the damage and skaiths, gif it happins him, to be slane in battell.

4. And gif he can not finde sic pledges; he fall passe and thoill ane assise, quhither he will or not. And gif he be clenged, he fall passe quite with the thing challenged; and the complainer fall be vnlawed, be reason of his (*vnjust*) persute.

5. Bot gif the defender is fyled be the assise; his Lord fall take and intromet with all his gudes, found and apprehended, within his dominion. And gif anie other gudes or geir be found pertaining to the theif, in other Lords dominion, they may intromet therewith: Provyding that the Lords hes power to halde courtes, in the quhilk eschiers may be adjudged to pertain to them.

*11c. 6. parl. 11.
c. 50.*

6. The wife of the theif, quha is condemned, sould not be condemned, be reason of the thift committed be her husband; because she is vnder the wand and power of her husband.

7. Nevertheles, in certain cases, the wife sould be answerable, that is, gif the thing stollen is found and apprehended within her keyes, quhilk she hes in her cure and keiping; as within her spense, her arke or almerie; and gif the thing stollen be found within her keyes:

keyes: she as consentand with her husband fall be culpable, and punished.

WHAT PERSONS MAY GIVE DOME,

and of falsing of dome. CHAP. 13.

IN the Schiref court, anent roborie, anie frie person may giue judgement or dome; for quhat partie pleyand, as he pleases.

Al. in the Schir-

2. Swa that he be not ane suspect persone, as his tennent, or of his famelie, or weirand his cleithing, or ane of his counsell, or partaker in the querell, or for sic other cause.

ref court, any frie.

Iac. 1. parl. 9. c.

3. And he quha pronounces that dome, fall finde ane borgh, to make it gude, in case it fall happin to be againe said.

116.

Iac. 4. parl. 6. c. 95

Stat. with. c. 16.

4. And gif it be againe said, be any man present that day; he quha makes the contradiction (or falsifies the dome) fall presentlie at the least, alledge ane reason.

5. He fall not turne his taes quhere his heill stude, before he make the contradiction: And gif it bees testified be the court, and proven, that he turned his taes (turned him aback) he fall not be heard to falsifie that dome, albeit it be manifestlie false.

6. And gif he is absent, he may falsifie that dome, within fourtie dayes; and finde ane borgh to that effect, before the crowner, gif he is within the Schirefdome, or in the Justitiars court; and gif it beis within borgh, before the Baillie thereof.

Mer. Reg. parl.

7. c. 62.

Iac. 3. parl. 6. c. 41

7. In ane Baron court, gif all the court pronounce ane dome, quhilk is falsified in the Schiref court, ane amerciament onely fall be vp taken, because that court is the court of ane Baron.

8. Bot gif ane dome pronounced, and againe said in the Schiref court, is falsified before the Justitiar in his court; ilke soytour before the Schiref, pronouncers of the said dome, fall be vnlawed before the Justitiar in ten poundes. Because ilke soytour before the Schiref represents the person of ane Baron, for quhom he was soytour in that court: For sa many Barons, be quhom the lawes of the Realme are made, sould haue discretion, and mair knowledge of the lawes made be them selves, then the laik and vulgare people sould haue.

** And common men ignorant of the making of the lawes, are soytours.*

Quon. Attach.

CONTINUATION OF JUDGEMENT OR COURT. CHAP. 14.

Mod. Ten. Cur.
c. 34.

QWhen either of the parties seikes judgement (*craves proces*) anent any certaine thing, or vpon ane certaine article, or parte of the pley betwix them, for ane certaine reason; and the court respites and continues the samine, anis, twise, thrise, as may be done be the law: it is not lesome to the partie cravand proces, to propone moe reasons, nor zit to adde, or to cik; bot they quhilk were proponed in the beginning of the pley.

2. Nor the Judge may not proceed farther in the proces, vntill that judgement quhilk is desired, be first declared & pronounced.

L. 3. c. 23.

3. And gif the soytours alledges that they can not pronounce that dome or sentence; ilke ane of them, fall sweare vpon ane buke, and that judgement fall be send to be declared in the Schiref court, or to the justice in his justice aire.

OF THE OFFICE AND POWVER OF ane soytour. CHAP. 15.

In the Schiref court (*gif he be present*) any Barons soytour, may pley for his maister, and answere without any challenge.

2. And in absence of his maister, he may repledge his men, to his court, be reason of his office, as gif he had ane letter of attorney. Bot in the other place, he may not doe the samine without the said letter.

3. And in the Schiref court, he may not answere for ane other man, nor his maister, without the licence of the Schiref.

OF ANE SUSPECT JUDGE. CHAP. 16.

QWhen either of the parties craves proces, or justice, gif the Schiref or Judge is suspect any way; the partie may desire him to be removed, vntill the judgement be discuss'd be the soytours of the court.

2. And they fall call him in againe, that he may sit and heare, the judgement given to the parties.

3. Because it is trew, that na judgement or sentence can be pronounced, except the Judge be sit and in court.

4. And quhen the judgement, or proces in his absence, is advysed

vyfed; how it fall be pronounced in court; he may not change, or alter the fame; nor stay that it fall be otherwise pronounced then it was advyfed.

5. Na Judge fould make himfelfe partie in any pley, for either of the parties, nor alledge any reason for them; bot onely fould informe the foytours, gif they be ignorant of the law, anent wardes (*interloquuntours*) or decreits.

OF ANE FORTHCVMAND BVRGH, AND
ane borgh to anfwere as law will. CHAP. 17.

GIf ane man is borgh for ane other, attached at the instance of any man, in ane action of debt, or of transgression; either he is pledge for him, as ane forthcummand borgh, as ane haill man.

2. And then he is oblitted onely to enter his perfone, or bodie, gif he be ane haill man, in the court before the Judge, day and place assigned to the parties.

Iac. 1. parl. 9. c. 115.

3. Either he is borgh for him, to anfwere as law will, to the partie adverfary; in that cafe, he fall be fullie pledge for him, unto the end of the pley, and fall be answerable for him, als weill anent the court; as to the partie, gif he for quhom he is borgh, happins to be not fufficient (*or non folvendo*)

4. The borgh fould never be diftreffed for the debtour, albeit he be perfewed be the creditour in judgement, gif the borgh may proue that the principall debtour is available, and diftrenziable to the creditour for that debt, within the fame jurisdiction, quhiere the creditour makes refidence.

L. b. 3. c. 4. 7.

5. Gif ane man, is borgh to ane other, to enter ane man (*ane thrid man*) in court at ane certaine day, as law will; baith the borgh and the defender, gif they please, may elfonzie themfelfe; and ane elfonzie is fufficient for them baith.

OF ANE MAN-SLAYER, AND OF
his lands. CHAP. 18.

GIf ane man commits flaughter, and is fugitiue fra the law; his lands fall perteme to the King, be the fpace of ane zeare, and ane day, within the quhilk tyme, the King may remit the flaughter, and reftore his lands to him.

*Iac. 5. par. 4. c. 31.
Iac. 6. parl. 3. c. 49. parl. 8. c. 136.
Hen. 3. an. 9. c. 22
Edward. 2. An. 17 c. 16.*

2. Bot gif he remaines fugitiue fra the law (*rebell and at the borne*) after the faid fpace of zeare and day; his fuperiour or overlord

Quon. Attach.

Stat. 3. Rob. 3. c.

9.

¹Lib. 2. c. 56.

Lib. 4. c. 34.

lord of the lands, hauand power to halde court, anent slauchter, fall recover the lands forth of the Kings hands; and fall reteine and possesse the samine, induring the lyfetime of the man-slayer; albeit the King gives to him ane remission, for the slauchter.

3. Bot be the law of the Realme, his heire after his deceis, fall recover the lands (*forth of the hands of the over-lord*)

4. Gif the over-lord, of quhom the man-slayer halde his lands in chief, is minor, and in the Kings warde, be reason of his minoritie; and the King possesse the lands perteing to the man-slayer, in respect of the minoritie of the over-lord, attour the space of ane zeare and ane day; and happin to giue and dispone the lands as escheit, to any man: He to quhom they are given, fall possesse them, sa lang as the man-slayer lives, albeit the over-lord, quha was in the Kings warde, come to perfite age, and recover his haill dominion and lands, forth of the Kings hands.

5. Because that escheit is bot moueable, and micht be disponed be the King (*hauand power for the time*)

6. Bot gif it had bene in the Kings hands, quhen the over-lord recovered his lands fra the King, he wald haue recovered the samine escheit, with his lands.

7. Bot before the over-lord recovered his lands, that escheit micht haue bene lawfullie disponed be the King, to quhom he pleased.

TREASON AGAINST THE OVER-LORD

or the King.

CHAP. 19.

Hen. 7. An. 17.

c. 7

Jac. 1. parl. 1. c. 30.

Jac. 2. parl. 6. c. 14.

QWhen ane man is convict of treason against his over-lord, his heire fall be disheriffed perpetuallic, of all lands, quhilk did halde of that over-lord

2. Bot the heire after deceis of his father, fall recover all o-ther lands, quhilk he did halde of other over-lords.

Lib. 4. c. 1. c. 10.

Leg. Mal. 2. c. 12

3. And gif the treason is committed against the King; the heire of the traitour, fall be perpetuallie disheriffed of all lands, quhilk his father had within this Realme.

THE WIFE MAY REVOKE THE ALIE-

nation of her heretage, made be her husband. CHAP. 20.

Lib. 2. c. 29.

Jac. 3. parl. 11. c.

83.

THe husband may not analie the heretage, or lands pertaing to his wife.

2. Quhilk

2. Quhilk gif he does, after his death, the wife, or her heires, may revoke that alienation; because sa lang as her husband, was livand, she was vnder his wand and power; and he was Lord of all, quhilk pertained to his wife, induring his liffetime onely.

THE POWVER OF THE WIFE ANENT
hir husbunds gudes. CHAP. 21.

NA woman cled with ane husband, may, nor sould frielie *Edward. 1. An. 6.*
giue, nor sell any parte of her husbunds gudes, aboue the *c. 7.*
valour of foure pennies, without consent of her husband.

2. Except almes to be given moderatlie, and charitablie; and abulzaments of her bodie, cutted and shapin in claithing, and all things broucht be her to her husband, except her tocher, and her jowels.

3. The quhilk things may not be disponed, without licence of her husband; otherwise, the disposition is nulle, and of nane avail.

ANE MARIED WOMAN MAY NOT
be ane pledge. CHAP. 22.

NA woman hauand ane husband, may be ane pledge, for any thing given and sauld; nor persew any action or pley anent any thing, nor defend the querell, or complaint of her husband, except it be with consent and authoritie of her husband. And gif anie thing is done in the contrare, the samine is nulle and of na itrenth or effect.

2. Nevertheles, ane widow may be ane pledge to any man, and frielie doe; and dispone vpon her gudes, in sic maner as she pleates, according to right and justice, without licence or impediment of any man.

OF ANE HERREZELDE.
CHAP. 23.

Gif ane dwelles vpon land pertaining to ane frie man, and as ane husband man, haldes lands of him; and he happin to deceis; his maister sall haue the best caver, or beast (*the best aucht*) *a Of are oxgait*
of his cattell, provyding that the husband man, did haue of him, *of land.*
the aucht parte of ane ^a dawache of land, or mair.

2. For gif he had ane les parte of land, he sould giue na thing

Quon. Attach.

thing for his herrezelde.

*THE LORD MAY PROVE NOTHING A-
gainst his man, gif he will acquite him against his Lord.*

CHAP. 24.

THe Lord may proue nathing be witnes in his court, against his man or tennent, nor condemne him for any transgression, alledged done be him, contrare his Lord; except it be ane manifest transgression, quhilk requyres na probation.

2. Nor zit to proue any convention or promise against him, be witnes; iwa that his man or tennent, will putge and acquite him of the thing laid to his charge.

3. And he sall make his acquitance against his Lord, be his awin eath, and the eath of ellevin leill and vnsuspected men.

4. Bot gif the Lord hes any writ or instrument, sealed with the seale of his man, or tennent, anent any thing; he may in his awin court, proue against his tennent, be the said instrument or writ. Becauld against probation be writ, na acquitance be witnes sould bereceaved.

5. Bot gif any man will acquite him against the King; he sall doe the samine be his awin eath, and also be the eath of twentie foure men, of his peires, of like condition with himselfe.

OF SCHAVVING OF HALDING.

CHAP. 25.

Stat Rob. 3.c.36.
Is. 1. par. 1.c.9.
Is. 6. par. 12.c.
131.
NA frie man is oblissed to answer to his Lord, in his court, anent his tenement and heretage; except he be summoned, be the Kings pleadable brieue.

Hen. 3. An. 52.
22.
2. The vassall or tennent, albeit he be summoned sould not shaw his over-lord, his Chartour or halding, bot anes in his lifetime.

3. And quhen the over-lord sees his Chartour, he sould restore the samine to him incontinent; and he may not, nor sould not, aske or haue ane coppie thereof.

OF

OF PLEDGES OBLISSED CONJUNCTLIE.

CHAP. 26.

GIf twa men, or moe are pledges in ane action or pley, and are summoned to ane certaine day, to answer for their borrowgange; and ane or moe of them is not present, the rest quha are present, sould not be compelled to answer without him, or them quha are absent: bot gif they please, albeit they be summoned to that effect, except they answer fulishlie. Lib. 3. c. 1. 10.

NA MAN SOULD PLEY IN ANE OTHER mans court.

CHAP. 27.

GIf any man compleines not in his awin Lords court, bot in ane other Lords court, touching any thing pertaining to his Lords court: his Lord may haue of him the full vnlaw of his court, as of ane man quha walde abstract fra him the commoditie and liberties pertaining to his court,

QVHAT SUMMONS ARE GVDE, AND quhat not.

CHAP. 28.

Summons made in tyme of night, are of nane avail; because they sould be made quhen the Sunne shines, and not before the rysing of the Sunne, nor the ganging downe thereof.

2. And they sould be made before lawfull witnes; otherwise it is lesome to any man to say and object against the samine. Lib. 1. c. 6.

3. Summons sould not be execute vpon ane Sunday, halie day, nor solemne day.

4. Gif any man dwelland vpon the north side of the water of Forth is summoned in any pley, be the space of fiftene dayes; and before the summons is execute against him, he passed to the southside of the samine water, he sould not be compelled to answer to that summons; gif he will alledge the samine for his defence, except he will answer fulishlie.

5. And the like is to be vnderstand of them quha dwelles bezond Drumalben, and the water of Spey; gif they be summoned in maner foresaid.

FOR QVHAT CAVSSES ANE MAN MAY say against his awin deid.

CHAP. 29.

ANe man may say against his awin proper deid, or fact, for thrie causes. First, gif he be minor, and within age; his deid is not

Quon. Attach:

is not valliabill; except it be done with authoritie of his tutour.

2. Secondlie, gif he be in prison, or in bands, or in the hands of theifes, or reavers, or of his enemies; his deid is not lawfull, be reason of feare and dreadour, quhilk may fall in ane constant man.

3. Gif any man is Lunatick, woodde, or furious, with space of manifest wit and judgement betwix ilk time; quhat ever bies done be him the time of the furie, is not valliabill; gif the furie or madnes is lawfullie proven.

OF THE REMOVING OF HOVSIS.

CHAP. 30.

GIf ane man is pleaded for land, or tenement, quhereof he hes bene in possession be ane certaine time, and hes there bigged houses and biggings; It is lesome to him to destroy and cast downe these houses, and cary away the timber thereof, gif he please, before decreit or judgement shall be given in that pley.

OF THE EATH AFTER THE VVAGING of the battell.

CHAP. 31.

IT is statute, that the defender shall first wage the battell, and thereafter sweare. Because for his defence, he may cheite, and elect to fecht be battell, or desire to passe to ane assise. And therefore all defenders sould first make the election, and thereafter sould wage the battell; and last of all, sould sweare.

CONSENTERS TO ANE ASSISE, MAY not use ane essonzie.

CHAP. 32.

Hen. 3. An. 52.
13.

Gif twa men puts themselves willinglie to ane assise, for declaration of the veritie, of any complaint or deid betwix them: notwithstanding of any essonzie, the assise shall proceed.

OF THE ESSONZIE AND SUMMONS of soytours, and of frie balters.

CHAP. 33.

ILk soytour of court, may essonzie him thrie times, for his none compeirance in court; and may compeir at the fourt court, and warand and defend his essonzies.

1st x. parl. 96.
114.

2. Quhilk gif he does not, he may be amerciast: And the judge sould not admit the essonzie without ane borgh. And gif the

the maker of the essonzie hes not ane pledge, he may be vn-
lawed.

3. *Item*, na soytour sould come to the court of his Lord, with
out lawfull iummons and warning. *Iac. 1. parl. 9. c. 114.*

4. The parties likewise sould not compeir, albeit they be vn-
lawed in court, bot gif they be summoned, except they consent
to doe the samine.

5. Bot ilke soytour sould compeir at the thrie heid courts,
without summons. *Iac. 5. parl. 6. c. 70.*

6. And the persewer and defender sould not likewise com-
peir, except they doe it willinglie.

7. It is lesome to the parties, and to others, to vse essonzies in
the heid courts, as in others courts.

8. Bot it may be demanded, quhither ane frie halder, quha
awes na thing to his over-lord be zeare, bot thrie soytes, at thrie
heid courts, may vse any essonzie at the said courts, or not?

9. Some answeres, that he may doe it, as other soytours does.
Bot surelie, he may vse na essonzie, because his service is limitat
specialle: And gif he micht vse ane essonzie, he micht likewise
vse thrie essonzies; and swa zearlie he sould make na soyt, quhilk
is contrare to the tenour of his infestment,

ANE BORGH SOULD NOT BE FOUND

for ilk exception, except it be frivoll. CHAP. 34.

Iac. 6. parl. 6. c. 91.

IN all courts of Barons, Schirefs, Justitiars, and others, quhere
parties pleyes; either of the parties may (*aske and craue proceffe*)
seik interloquutour or dome, vpon all lawfull and relevant ex-
ceptions, without finding ane borgh (*to the Judge*)

Iac. 1. parl. 3. c. 55

2. Except the partie stoppe, and troubill the court, be propo-
ning of frivolous exceptions.

3. For in that case, the Judge sould not admit sic exceptions,
without ane borgh, found be the proponer thereof, to him, a-
nent judgement to be given anent these exceptions.

4. The court sould serue and doe justice to the parties, anent
the interloquutours, and domes socht be them, reasonable with-
out finding of any borgh be the parties, to them.

6. For otherwise, many pure men walde not seik justice, be-
cause they durst not finde ane borgh, vpon their lawfull excep-
tions, for feare of paying of the amerciament of court (*in case they*

P

failzie

Quon. Attach.

failzied in proving of their exception)

OF THE M *Q* VHA MAY SPEIK IN court. CHAP. 35.

IN ane fensed and affirmed court, na man sould speik, bot the parties, their preloquutours, and their counsalcours.

2. Except in interloquutours, and domes asked be the parties, for declaration quhereof, all the soytours may propoule their reasons.

3. In the Justitiars court, gif any stranger, or singulare persone gives dome, for any of the parties; and affirms the samine, be finding ane borgh in court; that dome being againe said, sall be declared the samine day, be the soytours of the court.

4. Quhilk may not be done in ane other court, because the vnlaw of ane dome againe said, and falsified before the Justitiar, is ten pounds; quhilk amerciament, may not be taken in na other court, bot in the Justitiars court.

ANE SOTTOVR MAY NOT BE VN- lawed for evill making of ane record.

CHAP. 36.

ANe soytour sould not be amerciat, suppose he make not ane gude recorde (*or reporte*) of any action or pley, or of the clame betwix the parties in court.

2. Because, albeit he erre or failzie, he may be corrected be some of his companions; in respect that sic records, depends vpon the mouth and consent of all the soytours, and not vpon ane of them; bot gif the rest consent with him.

3. And ilk soytour before he is admitted and receaved be the Judge, sould be exantinat in thrie courts, gif he can make recorde of the court (*of ane proces deduced in court*) or report ane sufficient warde (*interloquutour*) or dome, anent wardes, or exceptions asked in the court, or may, or can not doe the samine.

4. And swa he being admitted and approved be the Judge and his companions; thereafter sould not be amerciat be reason of his ignorance.

ANY

ANY FRIE MAN STRENZEABILL MAY
be borch for his vnlaw in court. CHAP. 37.

ILke frie man may be borch for himselfe in court, or outwith
court, for his awin vnlaw, or other small things; swa he be re-
sponsall and strenzeabill to the judge.

QVHITHER ANE VVIFE OF LAUVVFULL
age, her husband being minor, may be compelled to an-
swere as warant. CHAP. 38.

Q When any man calles for his warant, anent ane pley of
land, ane maried woman of perfite age, hauand ane hus-
band of les age, within twentie ane zeares: It is demanded, gif
she is oblitted to answere, without her husband, anent the wa-
randice?

2. It is answered, that she sould compeir as watant, in case
the land moue and descend to her, fra any of her predicellours,
and not fra the antecellours of her husband.

3. Bot quhen she takes vpon her, to be warant (*is decerned as
warant*) she is not oblitted to answere in the principall cause, vn-
till her husband come to perfite age.

OF THE IMPRISONMENT OF
ane frie man. CHAP. 39.

A Ne frie man sould not be imprisoned at the complaint of
ane other; swa that he finde sufficient pledges, to answere as
law will, to the partie complenand vpon him.

2. Except in sic cases, quherein he sould not be lattin frie, al-
beit he offer pledges for him; that is, gif he is takin with reid or
hair hand of slauchter, or with the fang, or in hand hauand thift,
or roborie (*things stollen, or robed and rest*) in the quhilk, and
sic like cases, sic malefactours, be the law, incontinent sould be
condemned.

3. And gif they be delayed, and keiped attour ane nicht,
they may be repledged be their maisters to vnderly the law.

4. Except great transgressions done and committed against
the King, or the great Lords of the Realme, for the quhilk they
sould be imprisoned, be reason of the enormitie of their fault, and
the irreverence of their superiours.

Quon. Attach.

OF HIM QUHA SPEIKS EVILL TO the Baillie. CHAP. 40.

Mod. Ten. Cur.
c. 72.

Exol. c. 22. 28.

Ad. c. 23. 5.

Leg. Burg. c. 104.

GIf any man railles, or speiks evill to the Baillie, in his Lords court; in that samine court he tould be challenged, for his trespalle; and make ane reatonable mends, conforme to the Baillies complaint.

BARONS SOULD FYPELL ALL malefactors. CHAP. 41.

A. Thrise.

ILke Baron may purge and clenge his lands^a twise in the zeare, Let all malefactors, and men of evill brute and fame, be ane assise of honest and faith full men.

2. Bot the assise tould file na man, bot these quha consented to the assise.

ANE COMMON THEIF SOULD NOT be redeemed or pardoned. CHAP. 42.

Stat. with. c. 15.

Vid. lac. 1. par. 13

c. 137.

GIf any man is challenged and convict of common thift, before the Justitiar; he may not be redeemed, or ransomed for any silver.

2. And sic ane common theif is presented to the Schiref court, the Schiref may accuse him for common thift, albeit na man compeir to accuse him.

3 And gif he denyes, and puts himselfe to ane gude assise, and the assise file him; the like fall be done to him, as before the Justitiar.

ANENT COVRTS OF LIFE AND limme. CHAP. 43.

Life or limme may not be adjudged, or decerned ds escheit: n ane court, inferior to ane Baron court; except that court haue the like libertie and fredome, as ane Baron hes, and as some Religious and Ecclesiasticall men hes.

SERVICE DONE BE THE TENNENT prejudges not his maister. CHAP. 44.

NA service done be the tennent, within his tyme, to any man, for his Lords land, quhilk service the Lord is not bound

bound to doe, prejudices not his maister or Lord of the land. Nor the deid of the tennent after his terme, does not hurt his Lord.

THE TENNENT IS NOT OBLISSED TO
his Lord, for sic service, as he did be cumpulsion to others.

CHAP. 45.

GIf any frie halder, quha is tenement is frie, from all service, be his infestment; happin to fall and pertene to ane Lady, be reaton of her terce; and he willinglie, or against his will, does any service to her, cumand to her court, or sic other service in her liftime; after her deceis, quhen the terce returns to the twa parte, pertening to the Lord: the Lord of the land may not craue the like service fra the tennent, suppose the tennent did it to the said Ladie; because he is not oblitted be his infestment to doe the samine; nor his over-lord was never vest and saised ther-intill.

THE LORD MAY NOT RECOGNISE THE
the waist land for his annuels bygane. CHAP. 46.

GIf the tenement of ane frie halder is halden of ane over-lord, for payment of ane zearlie annuall rent of silver: and the tennent or vatfall, is absent, or farre off, be the space of many zeares; and the land is waist, and not distreazeable: Be the law, the Lord may not recognise the land, nor saise the samine in his hand, for the arrieragis of his fermes (*for the rest of his mailles a-ward to him for tyme bygane*)

2. Bot he fall stay, and tarie vntill he finde some thing within that land, be the quhilk he may distrenzie that land, or the possessor thereof, for all the arrieragies of his fermes in tyme bygane.

THE LORD MAY RECOGNISE THE
land for service. CHAP. 47.

IT is otherwile to be vnderstand, gif the land awe any service to the over-lord; because in that case, he may lawfullie sum-mone the tennent of the tenement, and land to compeir within the space of sax oulkes in his court, to heare him decerned to doe

Quon. Attach.

that service; and deduce ane lawfull proces against him, be summons, and vptaking of amerciaments for his defaults, be ane zeare and ane day, as sic ane proces requyres. And gif he compeirs not at the tyme; the over-lord may be dome of that court, recognes that land, and possesse tharent of it zealie.

OF ESCHEITS.

CHAP. 48.

Escheits falles fundrie wayes, some tyme in moveable gudes, and some tyme in lands and tenements.

2. Escheits of moveable gudes, some are be the law positifue, and some be divers chances.

3. Escheits of lands and tenements, some are temporall, and others are perpetuall.

4. Be the positifue law escheits are, as lands, places, and all other things quhilks are occupied be na man (*are in na mans dominion*) and therefore be the law, perteines to the King.

5. And syva, all hurdes and treasures hid vnder the earth, or in other places, quhereof the awner is not knawin, and quhilks are not challenged be any man, be the law perteines as escheit to the King. Bot gif the awner of them is knawin, to quhom they perteine, they sould not be judged as escheit.

6. *Item*, moueable escheit is, as be pasturing of cattell or beastes in the lands, or gise of Lords sundrie tymes, with ane hird followand them; conforme to the conswetude of the places, these beastes may be escheitted.

7. *Item*, gif the Forester in the wodes perteining to the king, or to any Lord, findes any man with ane wayn and horse, or with horse without ane wayn, cariand away grene wodde; as he finds him, he may attach him be sicker pledges, to enter and compeir in the Kings court, or in the court of the other Lord; and quhen all these things are entered in court, the King, or the Lord may clame them to be his escheit, and sall obtaine them be judgement and dome of that court.

8. Quhen the escheit is adjudged to perteine to any man; there sould na farther amerciament, or vnlaw of court to be taken.

9. And he quha is attached, may not be repledged to his Lords

Lords court.

10. Item, there is other escheits in moucable gudes; gif ane wyld or head strang horse, caries ane man against his will, over ane craig, or heuch, or to the water; and the man happin to drowne; the horse fall perteine to the King as escheit.

11. Bot it is otherwise of ane tame and dantoned horse; gif any man fulishlie rides, and be sharpe spurres compelles his horse to take the water, and the man drownes, the horse sould not be escheit, for that comes be the mans fault, or trespassse, and not of the horse, and the man hes receaved his punishment, in sa farre as he is perished, and dead; and the horse quha did na fault, sould not be escheit.

12. The like reason is of all other beastes, quhilk slayes ane man, for all these beasts sould be escheit.

13. Gif any man falles in the mylne dame, and is caried downe to the mylne quhele, and is slane; the mylne sould not be escheit; for na thing can be adjudged to be escheit: bot gif it be for transgression, or felonie, and the Lord of the mylne, in this case, is not in the wrang, nor hes committed na fault; seing it is lesome to him to haue ane mylne, and the mylne hes done na trespassse; seing it is ane dead thing, quhilk may not commit ane trespassse to any man: and swa in such cases is not judged as escheit.

14. There is ane other moucable escheit, of any wayf beast, *Exod. c. 22. 5.* within the territorie of any Lord; the quhilk sould be cryed vpon the market dayes, or in the Kirk, or in the Scirefdome, sundrie tymes; otherwise the with halder, or detainer of that beast, may be challenged for thift, be the awner of the samine beast. And it sould not be adjudged as escheit, before the space of ane zeare and ane day; within the quhilk tyme, the awner of the beast may haimehald that beast *(challenge it as his awin proper beast)* *Dent. c. 22. 1.*

15. There is ane other escheit, quhen ane man intestat is condemned to the death, and swa deceitles; al his gudes fall remaine with his Lord. And gif he hes moe Lords, ilke Lord fall recover the gudes and cattell, quhilk he fall finde within his fee and heretage. *Lib. 2. c. 53.*

16. Some escheits are temporall, as the lands and tenements of felonis *(of rebelles at the horne)* quhilk are escheit induring their lyftime, and not langer. Because after their deceis, their heires, *Supr. c. 38.*

Quon. Attach.

heires, be the law, may recover the lands.

Supr. c. 19.

2. Bot the lands of traitours, are perpetuall escheit, and may never be recovered be them, nor their heires.

OF BRIEVES, AND FIRST OF THE

Brieve of distres for debt. CHAP. 49.

14c. 3. par. 5. c. 36

R Estis to speik of Brieves currant, quhilk are pleadable, that is the brieve of distres (*or poynding*) for debt, the Brieve of convention. The Brieve for reliving ane man of borrow gange, quhilk he did vndertake for ane other. The Brieve of mortance-
krie. The Brieve of Dissaisine. The Brieve of Protection, and breaking of the Kings peace. The Brieve of Bondage. The Brieve of Warandice. The Brieve of richt.

jurisdiction.

2. Quhercot the first is the Brieve of distres for debt, in this maner: *James* be the grace of God, King of Great Britane, France and Ireland, &c. to our Justitiar, Schiref, Provest and Baillies, &c. and zour deputs, to quhom their present letters fall come, greeting. We command and charge zow, that ze compell all them, &c. quha within zour^a Bailleries, or Burrows, are addebted, in any debts, to *N.* to pay the samine to him, or his certaine aetornay, bearer of thir presents; as the said *N.* or his aetornay, fall lawfullie proue before zow: Swa that for zour default, or delay, we heare na just complaint heirafter. Thir presents to haue na strength, after zcare and day. In witnes quhercof we haue given these our patent letters. At *Perth* the 20. day of Februar. And of our Raigne the, &c.

3. Quhen this Brieve is presented to the Schiref, he fall cause his sergents distrenzie the debtour, be ane sufficient distres, according to the quantitie of the debt, acclaimed fra him, be the complener; to grant or deny that debt, at ane certaine day assigned to him, or to doe thereanent, as law will. And fourtie dayes fall be assigned to the debtour, to doe this, for the first tyme.

4. And gif the Schiref assignes to him ane shorter day; he fall enter his distres (*or poynd*) in the Schiref court, and fall repledge the samine, ay and quhill he haue fourtie dayes, be sundrie times, and then he fall be compelled to answeare. And after the said tyme, he fall enter his distres; and the complainer fall aske fra him, his debt simpliciter, without any clame containand the solemne words of the law, and not as is vfed in other pleyes of
wrang

wrang and unlaw, in the quhilk mention is made, with clep and call.

5. And the debour incontinent, will confes or deny the debt; and will alledge ane reaton, or cause, quhy he does the same.

6. And gif he denyes the debt, the complainer sould haue his probation readie at hand; otherwise the debtour fall palle palle quite and frie.

7. And gif the pro⁶ation is sufficient, the debtour fall be condemned to pay the debt, within fiftene dayes.

8. And gif he makes na payment, the Schiref fall cause his sergents, take and apprehend the cattell of his husband men (gif *he hes any husband-men vnder him*) and fall cause driue them to the market croce, of the cheif place of that Schirefdome, and fall be *Iac. 3. par. 5. c. 36. Iac. 5. par. 7. c. 106.* fauld be the creditour, vntill the summe of the debt, gif they may be fauld.

9. And gif they can not be fauld, the Kings officiars, in the end of the market, fall cause the said cattell to be comprised in the end of the market, be leill men, of diuerse Baronies, vntill the summe of the debt, and deliver the same to the creditour for payment of his debt.

10. Na elsonzies hes place in this brieve; because command is given in the brieve, that the debt fall be payed and given without delay to him, quha proues the same.

11. It is to wit, that this brieve does thrie things, to him quha purchelles the same; it takes fra the Baron the libertie to halde court vpon his man, quha is called for payment of his awin debt (*because in this case, he may not be repledged to the Barons court*)

12. Mairouer, the creditour may simpliciter, without any challenge, conforme to the solemne words of the law, aske and craue his debt, otherwise then vse is in pleyes of *wrang and unlaw.*

13. Last of all, the debts asked without amerciament of either of the parties.

14. And this breive is persewed before the Justitiar, or the Schiref or Provest of burghs, or their Baillies, as it fall please the King to command be his letters.

THE

Quon. Attach.

THE BRIEVE OF CONVENTION.

CHAP. 50.

THe like proces sould be keiped, and observed in the breive of convention; quhereof this is the forme.

James be the grace of God, King of great Britannie, France and Ireland, &c. to our Justitiar, Schiref, Provest and Baillics, &c. greting: We command and charge zow, that ze lawfullie compell sic ane sonne and heire of sic ane man deceilled, to obserue and fulfill justlie, and without delay, to sic ane man, the reasonable conventions made and agried, betwix the vmquhile father of sic ane man, on the ane parte; and sic ane man, vpon the other parte; anent sic ane thing: as sic ane man, or his certaine actornay, bearer of thir presents, lawfullie may proue before zow, against sic ane man, sonne and heire to his father, that he is justly oblissed to doe, and perteines to him to doe anent the fulfilling of the saids conventions: Swa that in zour default, heirafter we heare na just complaint heiranent.

THE BRIEVE FOR RELEIF OF ANE A-
nent his borrowgange. CHAP. 51.

THe like forme of proces sould be observed in the brieve, for reliving and keiping, skaithles ane man, be reason of his borrowgand (*cautionarie*) as is before said: The forme of the Brieve is this.

2. *James* be the grace of God, &c. To our Justitiar, Schiref, Provest, and Baillics, &c. greting. We charge and command zow; that justlie, and without delay, ze compell *A.* to releive, and keip skaithles *C.* anent his borrowgange, quhilk he vnder-tuke for *E.* for ane certaine summe of silver, or for ane horse, sauld be *E.* to *A.* In sa far as *C.* or his certaine actornay, bearer of thir presents, may lawfullie proue before zow, that the said *A.* did desire and cause the said *C.* to be borgh for him. Swa that, &c.

THE BRIEVE OF MORTANCESTRIE.

CHAP. 52.

Lib. 3. c. 28.

146. 4. par. 6. c. 54

I*Ames* be the grace of God, &c. to our Justitiar, greting: We command and charge zow, that be the best and eldest men of the

the land, justlie, and according to the law of the land, ze cause inquisition to be taken, gif vnquhile *A.* father to *B.* bearer of thir presents, deceilled velt and tailed as of fie, in the lands of *F.* with the pertinents, sic anetenement, and within the Schirefdome of *P.* And gif the said *B.* sonne of the said *A.* his father, be narrest and lawfull heire to his father, of the saids lands with the pertinents: Except lands given for frie almes, lands of frieholders, annuell rents, and wemens dowries, quhilks are in the saids lands. And gif there be any thing, quhilk may stay and stop him to obtaine be the law, saisng of the said lands, except before excepted. And gif ze finde swa, be the said recognition done justlie, and be the law of the land; and sic ane man, quha vnjustlie deteines and posselles the lands with the pertinents (*except before excepted*) being lawfullie summoned, to heare and see the said recognition orderlie led and deduced; alledges na reasonable cause; for quhilk the said recognition be the law, sould not proceed; ze sall cause deliver justlie, and without delay to the said *B.* sic likesaisng of the lands, with the pertinents (*except before excepted*) as the said *A.* vnquhile farl er to him, had of the samine lands with the pertinents, the day quhen he was livand, and dead. *Testemeip/o.*

2. This Breive is persewed before the Justitiar, and baith the parties pleadand, sould be summoned be the Schiref and his officers, to compeir before the Justitiar, vpon fourtie dayes, before witnes of diuerse Baronies to be produced afterward before the Justitiar in his court, to verifie the summons to haue bene lawfullie execute, to ane certaine day, place, before ane certaine Justitiar, generallie, as the Justitiar of *Lowthiane* (*not expressing his speciall name, quhilk is left to the King to doe in his commission*) to answere to sic ane man be his name, to the Kings Breive, anent sic anetenement, conforme to the tenour of the Breive.

4. And baith the parties sould compeir at the day of comparance, without any ellonzie or excuse; because na ellonzie hes place in this Breive.

4. The defender may desire to see the summons; and the summondes, that he may object against them.

5. And the persewer may desire the Breive to be heard; and being redde, to be put to the recognition, and knowledge of ane assise.

6. And

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6. And then the defender may aske the sight of the Breive, quhilk sould be given to him; in the quhilk gif he finds any fault, or vice, contrare the common forme of sic breives; be nomination of the land wrangouslie, or hes any relevant exception, quhereby the breive may be cassen, for that time: the persewer gif he please, may raise ane other Breive.

7. And gif he may not cast the breize be any exception; the breive fall passe to ane assise; except some other reasonabill cause be alledged, quhy it sould not passe.

Lib. 3. c. 28. 4.

8. And albeit the defender compeir not (*at the day to the quhilk he is lawfullie summoned*) the breiue fall stand in the awin strench, and the assise fall proceed.

THE BRIEVE OF DISSAISING.

CHAP. 53.

Lib. 3. c. ult.

Iac. 6. parl. 6. c. 81

parl. 7. c. 118.

IAmes be the grace of God, King, &c. To our Justitiar, It is shawin and declared to vs be *A.* heavelie complenand that *B* hes dissaised (*ejected*) him vnjustlie, and against order of law, forth of sic lands, in sic ane tenement, quherein he was vaist and saised diverse dayes and zeares, as of his sic. Quherefore we command and charge zow, that ze take and receaue certaine and sure pledges fra the said *A.* that he fall persew his clame and complaint; and thereafter cause take inquisition be gude and leil men of the cuntrie, conforme to the law of the land: gif it be swa, as the said *A.* did shaw to vs. And gif ze finde it to be swa, as he complained, be ane recognition made and done, conforme to the law of the land: ze fall deliver to the said *A.* complainer, saisying of the saids lands, with the pertinents, according to his complaint made to vs. And this ze fall doe without delay. Likewise ze fall take to our vse, the amerciament perteing to vs, fra the said *B.* be reason of vnjust dissaising, and ejection committed be him. And gif it be found otherwise, be the said recognition, or assise; ze fall take fra the said *A.* the amerciament perteing to vs, be reason of his vnjust complaint, and inbring the samine to our vse.

Viz. ten pounds.

Stat. Alex. c. 8.

2. This breive is persewed before the Justitiar; quhilk being delivered to him, baith the parties sould be attached be sicker and sure pledges, vnder the amerciament of ten pounds. In the quhilk

quhilk summe, either of them sould be condemned, that happins to succumbe and tye the pley.

3. And the samine forme and maner of summons sould be keiped and observed in this breive, as is vsed in the breive of mortancestrie; to ane certaine day and place, to answer to ane certain person, before the justitiar, and vpon ane certain thing, forth of the quhilk the cōplainer alledges him to be dissaised & ejected.

4. And gif the defender cumis to court, at the day of compeirance without any essonzie; the compleiner may seik the breive to be read; and the same to be put to the knowlege of ane assise.

5. And the defender may deny the dissaising (*and ejection*)

6. Gif the breive is impetrat, and raised, according to the forme and order of the Kings chappell (*Chancellerie*) the assise fall proceed.

7. Bot either of the parties may refuse the assise (*assisours*) before they be sworn, be lawful reasons, competent to either of the.

8. And gif the assisours delivers that the complainer is dissaised, as is contened in his breive, raised and purchesed be him; the damage and skaiths, quhilks he hes susteined be the defender, fall be taxed, and modified be his awin eath. In the quhilk the defender fall be condemned be the court; and fall finde pledges to satisfie the persewer thereof, within terme of law.

9. And nevertheles, the defender sal remain in the kings mercie, anent the borrowgang fund be him, quhen he was attached.

THE BREIVE ANENT THE BREAKING
of the Kings protection. CHAP. 54.

IAmes be the grace of God, &c. Our Schiref, &c. We charge and command zou, thir present letters being sene, ze cause lawfully summe *A.* to compeir before vs, in our town *N.* to answer to vs, sic ane day, anent our protection broken be him, and his forces and power, be horsemen and armies, and to doe there anent, as justice requyres: and ze fall bring thither with zow, the testimonie of zour summons, and this breive.

2. The breive suld be persewed before the Justitiar, and baith the parties fall finde pledges to the Crouner; the ane to persew, the other to answer to the summons, at the day assigned.

3. And in this pley the parties may vse thrie essonzies (*at thrie courts*) and may compeir at the fourt court.

4. And the persewer fall challenge the defender; that he sic ane day, at sic ane place, and in sic ane zeare, committed sic ane

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transgression, sic ane damage, in sic ane maner, as he deponed in his complaint to the Crouner of before; and he fall taxe and modifie his harmes and skaiths, in ane certaine quantitie; and fall alledge that the defender, did the samine against the Kings protection, and the law of the land; and offers him readie to proue the samine be ane gude assise.

5. And gif the defender can not defend himselfe, be gude reasons, against this clame; the assise fall proceed.

6. And gif the assisours being sworne, affirms, and delivers, that the defender hes broken the Kings protection, he fall be in the Kings mercie; and fall be condemned to the complainer in the harmes and skaith, quhereof he is challenged, be pledges found be him thereanent.

OF THE BREIVE OF VVARANDICE.

CHAP. 55.

IAmes be the grace of God, King, &c. To our Schiref, &c. We command and charge zow, that ze justlie compell *A.* to warand lawfullie, and conforme to the law, *B.* the sonne and heire of vinguhile *C.* the lands of *F.* with the pertinents, in the tenement of *N.* quhilk he clames to be halden be him, of the said *A.* heretablie be Chartour, conforme to the tenour of the said Chartour; swa that in zour defalt we heare na just complaint heirafter thereanent.

2. This breive is persewed before the Schiref, quhereof this is the forme of the processe. Quhen any vassall is infest be any Lord in ane tenement, be Chartour conteinand warandice; and the vassall is persewed anent the samin tenement; als sone as he is summoned, he sal impetrat and raise with all diligence, the breive of warandice, vpon the Lord quha infest him.

3. And gif the Lord dwels in ane other Schirefdome, he fall carie (*and present*) his breive to the Schiref of that Schirefdome, be the quhilk (*the Schiref of that Schirefdome*) fall cause summond the warant, to warand to the defender, the tenement quhereanent he is persewed before his Schiref.

4. And the defender in the principal cause sal haue the letter sealed be the other Scheref, to testifie that he hes begun to cal and persew before him, be the breive of warandice, his Lord (*as his warant*) quha infest him. And he fall carie the said letter to the court of the Schiref (*within quhis jurisdiction*) the Lord, or the warant dwels,

dwels; to declare, that he hes intended action against his Lord, for warandice. And swa he sal persew his action of warandice before his Lords Schiref; and at ilk day of the pley against his Lord, before his Lords Schiref, he fall raise the rolment of court, sealed with the seale of that Schiref; and fall exhibite and present to his awin Schiref the samine, before quhom the principall pley (*betwix the persewer and him*) depends, to testifie, that he lawfullie persews his Lord, as his warant, before the Lords Schiref, be the breive of warandice: And he fall swa doe at ilke day of the court, untill the end of the pley of warandice. And the principall cause or action, quhilk the persewer intended and moved against him, for his tenement and land, fall stay and cease in the meane tyme, untill the end, and finall decision of the pley of warandice.

5. And quhen the defender in the principall cause (*or the vassal*) hes called his Lord, before the Lords Schiref, as his warant, and produces his awin proper Chartour, conteinand warandice (*made be his Lord to him*) his Lord fall be decerned to warant to him that tenement and land.

6. And then the principall pley (*betwix the persewer and the defender*) fall be walkned, and begin againe, contrare the Lord; and he fall be compelled to answer thereintill.

7. And gif the Chartour, in the quhilk the warandice is contained, is tint and admitted, in the time of weirfair, or be any other chance; and the Lord alledge that he is not oblitted to warand, because the vassal (*quha persews him*) produces nathing in judgement, be the quhilk he sould be compelled to warand the said land. Some men affirmes and sayes, that gif the vassal, hes libelled in his clame, that he had ane Chartour given to him, be that Lord, or his predicessours of that land, conteinand warandice, quhilk was scene and heard before many persons; and be chance, and not be fraud or guile, is tint and amitted; and offers him to proue the samine, be ane gude and trew assise: and it be swa found be the assise, the Lord fall be oblitted to warant that land to his vassal. For otherwise many men sould tine their lands, be the tynsell of their chartour.

THE BREIVE OF BONDAGE.

CHAP. 56.

Lib. 2. c. 11.

I Ames be the grace of God, &c. To our Justitiar, &c. greeting.
We charge and command zou, quherever the bondmen of A:

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bearer

Quon. Attach.

bearer of thir presents may be fund, or apprehended (*except in our domanes, and our burghs*) quhilks bond-men (*and villans*) are fugitiues fra him, and be law, and reason perteines to him, within his lands, and villages; that ze cause them to be justlie delivered to him: that they may inhabite his saids lands. And we straitlie discharge all men, that nane of them, presume to deteine, or withhold them from him, vnder the greatest paine or vnlaw they may incurre. *Teste me ipso.*

2. This breive is perlewed before the Justitiar, or the Schiref; in the quhilk, command is given to the Justitiar, or to the Schiref and their substitutes, to restore and deliver to sic ane Lord, or his actornayes, his natiue bond-men, quherever they can be found, without the Kings burghs or domanies.

3. Gif the natiues bond-men deny to their Lord, their nativitie or bondage, they sall be attached be the Kings officers, or be the crouner, be sicker pledges, to answer to their Lord, before the Justice at ane lawfull day.

4. And after their ellonzies, quhen they compeir, the Lord may challenge them according to the qualitie of their nativitie.

5. Because there is sundrie kindes of nativitie, or bondage; for some are born bond-men, or natiues of their gudsher, and grandsher, quhom the Lord may challenge to be his naturall natiues, be names of their progenitours gif they be knawin: sic as the names of the father, gudsher, and grandsher, of them quha are challenged; affirmed them all to be his villans in sic ane village, and in ane certaine place, and servile land within the said village, and in ane certaine place, and severall land, within the said village; and be the space of many zeares, and dayes, to haue done to him, and his predicetfours, servile service. And this kinde of nativitie may be proven be the parents of him quha is challenged, or be ane gude assise.

6. *Item*, there is ane other kinde of bondage like vnto the former: quhen ane stranger receaves servile land fra ane Lord, & does servile service for that land, & deceitfles dwelland vpon that land; and his sone likewise deceitflos in the samine land; and after him his sone liues and dwels in the land, and there deceitfles; al his posteritie till the fourt degrie, sall be of servile condition, to the Lord. And his posteritie may be proven, as said is.

7. The thrid kinde of nativitie, or bondage, is, quhen ane frie man, to the end he may haue the menteinance of ane great and
potent

potent man; randers himselfe to be his bond-man, in his court, be the haire of his forehead; and gif he thereafter withdrawes himselfe, and flices away fra his maister, or denyes to him his nativitie; his maister may proue him to be his bond-man, be ane assise, before the Justice; challengand him, that he, sic ane day, sic ane zeare, compeired in his court, and there zeilded himselfe to him to be his slaue and bond-man. And quhen any man is adjudged and decerned to be natieue or bond-man to any maister; the maister may take him be the nose, and reduce him to his former slaveryerie; And take fra him all his gudes and geir, vntill the valour of foure pennies.

THE BREIVE OF RICHT WITHIN

Burgh.

CHAP. 57.

THis Breive hes this forme of proces. *James* be the grace of God, &c. To our Provest and Baillies of our burgh of *A.* We command and charge zou, that ze doe full richt and justice to *B.* anen, sic lands, of sic ane place, with the pertinents, in the tenement of *K.* within zour burgh; the quhilk he clames to be haldin be him of vs, heretable: Pay and therefore to vs sax pennies heretable, and doing service and helpe (*subsidies*) as effeirs, or perteines to the said land. Quhilk land *C.* injustlie deforces from him (*halds and deteins violentlie fra him*) as he alledges. Quhereanent ze fall doe swa, that in zour default, we heare na just complaint.

2. This Breive is presented to the Baillies in plane court; and incontinent they fall open the samine, in sic maner, as ane peece of the seale fall hing, and stick at the tag of the breive.

3. Thereafter incontinent, the breive fall be red; quhilk being red, the Baillies, at the desire of the partie, presenter of the breive; fall giue command to the sergent, that he with witnes, fall passe to the dwelling house of *C.* committer of the said force and violence; and summone him, that he compeir within fiftene dayes, before the Provest and Baillies of that burgh; quhere they fall happin to sit, to ansvere to *B.* and the Kings breive of richt impetrat be him, and presented to them, anent sic land, or rent, contained in the breive. And the sergent heiranent fall haue leill and trew, twa witnes with him.

4. And the fiftene day being come, the persewer compeir and in the court, sal call for his partie adversar; and fall cause him to be called be the sergent, thrise or foure times, at the least.

Q 3

5. And

Quon. Attach.

5. And gif he compeirs, he fall persew him in forme of law. And gif the defender vses any elsonzie, bot onely be reason of bed evill and infirmitie, or of the Kings service, or be passing to ane faire; the persewer, or his preloquutor, sal alledge and esteeme that elsonzie to be nulle. Because he can not be elsonzied bot be these lawfull elsonzies: And he fall alledge that elsonzie to be contrare to the common law, within borgh; and therefore to be of nane availl. And therefore the persewer fall protest, that the defender is in ane default; and that he hes wone his cause, and obtained that quhilk he desired: and vpon this alledgeance, he fall aske interloquutour of the court.

6. Moreover, the persewer, fall cause lawfullie verifie the summons ilke day of the court; and the verifications to be inrolled in the court, quhither the defender vses elsonzie, or makes default. And he fall doe the samine at ilke day of thrie courts.

7. And gif the defender compeirs at the fourt court; he fall be challenged be the preloquutour of the persewer, in this manner. Thou R. quha stands there, P. quha stands heir, sayest to the, and I in his name, and for his parte, that thou vnjustlie deforces (*violentlie deteins and with holds*) ane rude of land, or ane pece of land, with the pertinents, lyand within sic ane borgh, betwix the land of sic ane man, at the east, vpon the ane parte; and the land of sic ane man, at the west, on the other parte. In the vennell or wynde called be sic ane name, as the Kings breive in the selfe, at mair lenth testifies, and propors. Or sic ane annuell rent, awand to him, forth of sic ane land, lyand within sic ane borgh, betwix the land of sic ane man, on the ane parte; and the land of sic ane man, on the other parte. In the quhilk land, his father, his gudelher, or ane vther of his prediceffours, died vest and failed, as of sic lawfullie, and in frie burgage, in tyme of sic ane King, quhais name fall be named. And gif it be ane annuell rent, then the persewer fall say in his clame: The quhilk annuell rent, his father, gudelher, or ane other of his prediceffours, tuke vp be zeares and dayes, at sic termes; that is, the ane half at the feast of Whitsunday, and the other halfe at the feast of Martymes. After quhais deceis, the said rude, or pece of land, with the pertinents, or annuell rent, descends, or sould descend, heretable to the said P. or narrest heire, sonne, brother, or dochter. The quhilk land or rent, he clames heretable to be halden of the King of sic ane name,

name and his heires. Payand to him zearlie, at sic ane terme, samekill quhereof thou hes deforced, shamed, and defamed him, to the summe of, in silver, and gold. And gif thou be sic ane man that will deny this; the said *P.* persewer, prayes the Provest, and Baillies to doe Justice.

8. And the persewer fall answeire in sic ane maner, *R.* quha stands heir, denies word be word, the wrang and injurie, the vnjust deforcement, and all richt competent to the said *P.* in the said rude, or peece of land, with the pertinents, or in the said annuell rent.

9. And then the defender fall aske the sight of the breive, to be advysed therewith, and the premilles; and hauand receaved the samine; he fall passe out of the court and seik counsell.

10. And quhen he enters againe in court, he may deny the clame, as of before; and without delay he fall propone his exceptions, contrare the breive, or against the person of the persewer; or he may craue the sight of the ground, or he may desire ane lawfull day and terme, to call his warant.

OF ANE DEFAULT MADE BE THE
persewer, or defender. CHAP. 58.

IT is to wit, that in quhatsoever court any man pledes in ane ^{30.} action of debt, or of transgression, or of promeis, or convention not keiped, or of breaking of the Kings protection; gif the persewer makes default, at the fourt court, he fall be esteemed, as gif he had not persewed; and gif the defender makes ane default, he fall be reput, as ane not defended.

Inc. 4. parl. 3. c.

THE PROCES ANENT SLAVCHTER,
before the Schiref. CHAP. 59.

GIff the Schiref sould deduce proces against any man for slauchter, and the persewer is present; for the first tyme, fourtie dayes fall be granted to him, and he sould not want ane day of the fourtie dayes; bot gif he gets mae dayes, it is not to be regarded.

2. And the processe fall rin, anis, twise, thrise, and the fourt tyme; ay fra fourtie dayes to fourtie dayes, and the processe sould be inrolled in this maner.

3. The court of the Schiref of *P.* halden sic ane day, sic ane place,

Quon. Attach.

place, sic ane zeare. The quhilk day *A.* persewed *C.* for the slaughter of *F.* and the said *C.* being oft times called lawfullie, and not compeir and, therefore the space of fourtie dayes is granted to the persewer to persew. And command is given to all Maires of sic, that quherever he may be apprehended within their jurisdiction, that they attach him, vnder sicker and sure pledges, to compeir and answer to the compleiner; and swa, anis, twise, thrie. And gif he compeirs not the fourt day, or court; he fall be out-lawed (*denounced rebell and put to the horne*)

THE CONDITIONS OF ANE GVDE and lawfull judgement. CHAP. 60.

IT is statute, that ilk gude and lawfull judgement, sould haue thir conditions. First, that the day, that the judgement is given in, be lawfull, and not ane halie day. Secundlie, that the place of the judgement sould be lawfull. Thirddie, that the court (*the sours of court*) be lawfull. Fourtlie, that the Judge be lawfull (*competent*) Fiftlie, that the proces be lawfull, and conforme to the law.

THE ELECTION OF BATTELL, OR OF ane assise, is given to him, quha is accused of thift.

CHAP. 61.

GIf ane man is challenged for thift, in the Kings court, or in any other court; it is in his will quhither he will defend himselfe be battell, or be the clenging of twelue leill men.

OF PASSINGERS IN THE TYME of nicht. CHAP. 62.

Leg. Burg. c. 118. **I**T is not lesome to any man to passe forth of his house, or to walke, or travell in tyme of nicht; except he be ane man of great authoritie, or of gude fame, bot in thrie cases.

2. That is, to bring ane Preist to ane seik man; and he fall shaw himself, to twa or thrie men, dwelland in the towne, quhere the seik man lyes. And gif there be townes interjacent betwix that towne, and the towne quhere the Preist is, be the quhilks he must passe, he sould sic like notifie himselfe, as said is.

3. The secund cause, is the mylne; as caryand cornes to the mylne,

mylne; the quhilk cause siclike he must notifie and declare, as said, in the townes be the quhilk he passēs.

3. The thrid cause is, for the kings necessare affairs, or the passingers Lords, quhilk likeways he sould shaw in the townes quhereby he passēs; or for his awin gudes that samine nicht taken fra him.

4. And quhaever for any cause, travels in tyme of nicht, sall requyre witnessing, and testimonie fra the indwellers in the towne, fra the quhilk he passēs; and of the next towne, be the quhilk he passēs.

NA MAN SOULD LVDGE STRANGERS.

CHAP. 63.

IT is lesome to na man to receaue ane stranger in ludging, or to reteine him in his house attour ane nicht, bot gif he haue ane borch for him. And gif anie man remains in ane towne, attour the space of ane nicht; the Justitiar, or the Schiref, sall accuse him, and doe with him as they please. Iac. 6. par. 11. c. 97.

THE FORME OF SUMMONS, OR
attachment. CHAP. 64.

QWhen ane is summoned, or attached to compeir in court of the Justitiar, Schiref, Baron, Vassall, or of anie frie halder, hauand power to hald court: The Sergent, the Crouner, the Toscheoderach (*the Mair of fie*) in his summons, or attachment, before witnes, sould declare to him for quhat crime, or for quhat cause he is summoned, or attached, swa that he may be reasonable forewarned, how he sall make answer quhen he compeirs in court. Quon. Attach. c. 8. 9.

2. Except in indytment, quherein the cause of the summons sould not be shawin.

NA MAN SOULD ANSVVERE TO MOE
challenges nor ane, in ane day. CHAP. 58.

GIf any man is challenged be ane other; he is not oblitted to answer in ane day, bot to ane challenge, or for ane trespass: except he please to doe otherwise. Leg. Burg. c. 8.

2. Bot gif sundrie persons challenge him, be divers challenges; he sould answer to moe challenges nor ane.

THE

Quon. Attach:

THE MANER OF GIVING OF *sentence.* CHAP. 66.

IT is statute, that na Justitiar, Schiref or Judge, fall sit to advise the procelle vpon any petition, or exception proponed before him.

Supr. 2. 16. h. t.

2. Bot quhē it is cum to the giving of the sentence; the Judge sal ryse and pas forth of the court, and the frichalders of the court (*the joytours*) fall advyse the procelle, and fall call in againe the Justitiar, the Schiref, or Judge, in court; and conforme to their advysement, the sentence fall be pronounced in presence of the Judge.

ILK MAN SOULD BE JVDGED *be his peirs.* CHAP. 67.

Stat. Alex. c. 2.

Hen. 3. 18. 9. c. 14

IT is statute, that na man sould thoill judgement, or be judged, be ane man of inferiour estate then his awin peir; that is, ane Earle, be Earles; ane Baron, be Barons; ane Vavassour, be Vavassours; ane Burges, be Burgeses.

2. Bot ane man of inferiour estate, may be judged be men of greater estate.

THE SKAITHS OF REIF, OR THIFT, *may be taxat be the assise.* CHAP. 68.

GIf any man accuses ane other of roborie, or thift; and libellis in his clame, ane greater summe of silver, then he possessed the time, quhen the skaith was done to him; and the defender desires to be declared be the deliverance of ane assise of the countrie, or neighbours; that at that time, at the quhilk the partie adversar alledges him to haue receaved the damage and skaith, he had not, nor possessed sa great ane summe, nor receaved not sa great skaith. And gif the assise declares and delivers in sic ane maner; the defender fall passe frie and quite.

IN ANE CRIMINALL CAUSE THE COVRT *may taxe the skaith of the partie.* CHAP. 69.

Mar. Regiu. par.

7. c. 64.

12c. 6. par. 11. c. 87

GIf ane alledges that ane other hes brunt his house, or hes slane ane of his progenie; and libellis in his clame ane inestimable damage done to him, and conteinand in his clame, ane greater summe then he sould doe be the law, that is, for ane husband man

man ane thousand marks; the defender fall not answer to that vnreasonable summe.

2. Bot it fall be taxed and modified be the leill men of the court, quhat reasonable damage the persewer hes receaved be the death of his kinsman, according to his estate, gif he was ane frieman, or ane bondman; and the defender fall be answerable for that summe, and fall finde pledges therefore.

HE *QVHA SELLIS HIS LIBERTIE,*
may never be ane frieman.

CHAP. 70.

IN the Kings court, or in any other court, ane man may re-^{Sup.c.56.}
nunce and giue over his libertie; bot induring all his liffime, he fall never recover the samine.

THE SCHIREF MAY NOT DO JUSTICE
without his awin jurisdiction.

CHAP. 71.

THE Schiref, nor his deput, sould not mell, or intromet with any thing perteining to the Kings profit, without his awin Schirefdome, sic as making of summons, attachments, or taking of distrelles, or poynds.

2. Because the Schiref, and his sergents sould sweir, that they fall faithfullie serue the King in their awin Schirefdome, and fall nocht trubill or molest the induellares within that Schirefdome, vnjustlie, and against the law of the Realme.

THE PAINE OF THE KINGS PEACE,
broken be the indwellers of Galloway.

CHAP. 72.

AT Drumfries, it is statute conforme to the law, that gif any man is convict in Galloway, be battell, or otherwayes, of breaking of the Kings peace; he fall pay to the King, twentietwa kye, thrie horse; or for ilk ane of them, nine kye.

OF THE ASSISE OF MEN OF GALLOVVA.

CHAP. 73.

NA man within Galloway, fall haue (*the benefite*) ane assise, ex-^{Stat. Alex. c. 2.}
cept he renunce his awin lawes, and desire the samine. ^{Stat. Rob. 1. c. 37.}

THE

Quon. Attach.

THE PAINES OF HIM *QUHA* SPEIKS *the time of singulare battell.* CHAP. 74.

IT is statute, that quhen peace and silence is proclaimed, after the singulare combat, betwix twa men is waged in the Kings Palice, or in the hie Kings streat, na man sall speik, bot they quha sould keip the streit, or the Palice; sic as the keiper of the Palice, or the Justitiar.

2. And gif it happins any man to speik, after that peace sould be keiped, he sall pay to the King ane vnlaw of twentie kye. And gif any man puts to his hand, he sall be in the Kings mercie, of life and limme.

OF THEM *QUHA* ARE ACCVSED BE *the King, of felonie, or of any other injurie.*

CHAP. 75.

Supr. c. 24.

Inc. 1. parl. 3. c. 51

GIf the King accuses any man for felonie, of life, and limme; he sall acquite and purge himselfe, be the eath of twentie foure leill men, dwelland within that Schirefdome, within the quhilk that crime is alledged to haue bene committed.

2. And gif he be made quite be their eath, he sall be quyte and frie.

3. Otherwise, gif he be fyled be them; richt and judgement sall be done vpon him.

4. And gif the King challenge any other man, for any injurie; he sall acquite and purge himselfe against the King, be the eath of twelue leill men; otherwise, he sall satisfie the King of the challenge made against him.

INFERIOVR COVRTS HES NA *JV-* *risdiction, anent the pleyes of the Crowne.*

CHAP. 76.

Leg. Alc. 2. c. 11.

Lib. 4. c. 27.

Hen. 3. An. 9. c. 17

in magna Carta.

NA Provest, nor Baillie sould intromet, or cognose vpon the pleyes perteing to the Kings Crowne; bot onely anent attachments, and cstonzies, bot be speciall command, and commission given be the king. Because sic accusation, and defence of judgement, perteines to the Justitiar, or his deputs.

BARONS

BARONS MAY NOT MAKE AGREANCE

anent crimes.

CHAP. 77.

All Barons quha hes power of Pitt, and Gallous of thift, hes power to ^a hald court for slaughter: And gif in their courts, ^{To have a gal-} anwere is made to the accusation; it is not lesome to them to ^{lows} make recorde betwix the parties, without licence of the King.

OF LANDS OF THE KINGS PRO-

pertie given be him.

CHAP. 78.

IT is statute, that gif the King gives to any man, certaine lands of his propertie, extended and marched, conforme to the eath of men of the countrie; or without the eath of any man, of his awin frie will; and giues and assigns the samine, be certaine meths and marches (*be ane bound and Chartour*) he to quhom the samine lands are given, fall bruke and possesse them: frelie, conforme to the marches.

3. Swa that thereafter, he fall not tyne any parte of that land, be the breive of perambulation, or any other brieve, bot onely be the brieve of richt.

4. And in that case, the King fall giue to him ane reasonable exchange for the samine lands, or warand them to him.

THE JUSTICE SOULD HALD TWA

courts zearlie.

CHAP. 79.

IT is statute be the King, with common consent of his Realme, ^{Stat. Will. 1. c. 2.} that twa Justice Aires fall be halden zearlie, at *Edinburgh*, or ^{Stat. Rob. 3. c. 30.} *Pebles*. In the quhilk all frie halders, haldand of the King, and ^{Iac. 2. parl. 3. c.} being within the Realme, fall compeir; all *clonzie*, and excuse sett aside (*except it be of infirmitie, or of the Kings service, or tynsell of land*) to giue their advise and judgement, anent haistie and suddaine chances (*or questions*) of new emergent, quhilk micht not be foresene and knawen. And to informe and certifie the Justitiar in sic things as he doubts. ^{Iac. 4. par. 3. c. 29}

THE FORME OF CLAME, OR

petition.

CHAP. 80.

IN all clames, or narrations, lawfullie and formallie made, in ^{Iac. 6. parl. 12. c.} *actions of injurie, or transgressions, seven tearmes*, should be ^{Edward. 1. An. 6.} *observed,* ^{c. 9.}

R

Quon. Attach.

observed, that is, the names of the parties, or aſſornayes, gif the action is pleaded be aſſornayes, day, zeare, place, the cause of the complaint; the damage and ſkaith modified in ane certaine quantitie, the words of the court in this maner in the end of the narration vnjuſtlic, and againſt the law, with *wouch*, *wrang*, and *vnlaw*.

THE FORME OF PROBATION of debt. CHAP. 81.

ALl frie men may proue his debt to the valcur of fourtie ſhillings, be twa witnes, quha heard and ſaw the ſamine; and ſwa be diuerſe witnes, according to the quantitie of the debt.

2. Ane debt may not be otherwise proven, bot be ane letter obligatour, or be confeſſion of the debtour, in the court before the Juſtitiar, or the Schiref.

3. It is otherwayes before other Judges. And it is to be noted that quhen the partie hes named ane certaine number of witnes, he may not thereafter eike, nor pair the number of the witnes.

*THAT QVHILK IS DECYDED BE ANE
aſſiſe, or other probation, ſould not be iterat.*

CHAP. 82.

THe action, or querell quhilk is alreadie determed be ane aſſiſe, ſould not paſſe thereafter to ane other aſſiſe, nor probation ſould not be receaved after probation, nor purgation after purgation. Becauſe be the law, that quhilk is ains proven, ſould not be proven againe the ſecund time.

OF RESETTERS OF THIFT.

CHAP. 83.

Leg. Mal. 2. c. 14
Lib. 4. c. 26. **N**A man defamed, or ſuſpect, as reſetter of thift, ſould be puniſhed, vntill the principall malefactor be convict, or attaynted of that thift. And then it ſall be done, conforme to that quhilk is ſaid, conſenters and doers, ſould be puniſhed with the like paine.

2. And the common ſaying, he quha firſt complains, ſall be heard to perſew firſt, is to be vnderſtand of him quha does ane
injurie,

injurie, for he sould be first accused (*before them quha consents or assists him*) and swa he quha first complains, fall be first heard, and be determed.

IT IS LESOME TO THE DEFENDER

to object against the summons, and the attachment.

CHAP. 84.

GIf any man is summoned, or attached in any action, or complaint; quhen he compeirs in court, he may desire the sight of the summons, and of the attachment: that is, at quhat tyme he was summoned, or attached, and say against them, gif he hes any lawfull objection, because the summons and attachment are the mater, and beginning of the proces in the court.

OF ANE WIFE FUGITIVE, AND OF

her resetter.

CHAP. 85.

GIf any wyfe flees away willinglie fra her married husband, to *Edward. 1. An. 13* ane other man, for licherie, or sensualitie of her bodie; and *c. 35.* carries away with her, gudes and geir: he quha resets the gudes, *Stat. 2. Rob. 1. c. 13.* fall be punished for the resett of them, as of thift. And that wife fall not recover ane terce, after her husbands deceis; except her husband receaue her hame againe, of his awin frie will, without compulsion of halie Kirk.

OF PLACES FORBIDDIN TO HALD

courts.

CHAP. 86.

IT is defended and forbiddin, that courts anent pleyes of lyfe, of land, or of any other complaint, fall be haldin within halie kirk, or in the kirk-zarde, or in any other halie place.

OF FORBIDDIN TIME IN

fishing.

CHAP. 87.

IT is not lesome to take Salmond fish in any waters, fra the day *Jac. 1. parl. 1. c. 10.* of the nativitie, or assumption of the blessed Virgin Marie vn- *parl. 2. c. 15.* til the feast of Martymes. *Jac. 6. parl. 26. 1.* *parl. 7. c. 111.*

Quon. Attach.

Stat. Alex. c. 16.

Stat. 1. Rob. 1. c.

12.

Stat. Rob. 3. c. 7.

Edward. 1. An. 13

c. 4.

2. And siclike smolts, sould not be taken, or destroyed be nettes, or other ingynges at mylne dames, fra the middes of Aprill, to the nativitie of Saint *John* the Baptist.

3. Gif any man does in the contrare hereof, he fall be punished for the first fault, be burning of his nettes, and other ingynges: And for the secund fault, be imprisonment of his bodie, be the space of halfe ane zeare: And for the third fault, be prison of ane haille zeare.

3. And swa be multiplication of the fault, the paine likewise fall be multiplied.

OF THE SUCCESSION OF THE MIDDE brother.

CHAP. 88.

Vid. stat. Rob. 3. c. 3.
GIf there be thrie germane briiher, gotten and borne of ane father and ane mother; and the midde brother hauand land and tenement, deceis, without heires procreat of his awin bodie: his eldest brother, and first begotten, fall succede to his land and tenement, and not the after borne, nor zounger brother.

2. Because lands conquered sould ascend be degrees; and heretage sould descend be degrees.

THE SISTER GERMANE, SOULD be preferred to the halfe sister.

*The full blude is
preferred to the
halfe blude.*

CHAP. 89.

GIf ane man hauand lands and tenement, begettes vpon his married wyfe, ane dochter; and after deceis of that wyfe, he maries ane other wyfe, vpon quhom he procreats ane sonne, and ane dochter; after the deceis of the father, the sonne enters as heire to his fathers heretage, and is saised therein be zeares, and dayes: at the last, the sonne deceilles without heires of his bodie, this heretage, fall not be devyded betwix the twa sisters: Because the sister borne with him of ane mother, and father, fall haue the haille heretage of her brother germane; and the other sister of the father side onely, she fall haue na parte nor portion thereof.

OF

OF ANE MINOR, CALLED AS VVARANT.
CHAP. 90.

IT is to wit, quhen ane calles his warant; either he calles ane minor within age, or ane man of perfite age.

1. And gif he calles ane minor, the pley fall be continued, and delayed vntill the perfite age of the minour.

3. And quhen he is of perfite age, gif the pley touches him, he fall be summoned be the Kings breive; and the partie fall compeir, and persew the action and pley, quhilk of before was delayed and continued.

4. Nevertheles in actions of terce (or dowerie pertaining to ane woman) ane minor, fall answer be himselfe, or be his procurator, gif he be persewed, or called as warant (*not withstanding of his minoritie*)

5. Bot na man may call ane minor (or major) as his warant, without ane Chartour (*conteinand warandice*) and gif he doe otherwise, he tines his warandice.

6. Mairover, quha calles ane minor for his warant, he sould also call all them, quha hes any parte of his lands, be reason of warde; and als wa him quha hes his bodie in keiping and warde. And gif he doe otherwise, he tines his summons, because it is ane iniquitie, that some men sould warand, and others sould not, in sa far as they possesse.

OF THE SINGILL VALOVR, AND DOV-
ble of the mariage of ane heire. CHAP. 91.

IT is provyded, and statute, anent ²heires ravissed violentlic, ²Apperand heirs and with halden be their friendes (*or others*) that all laick men convict thereof, that away tuke any heire being minor, with hald him, or caused him to be married; he fall pay to his parents, the valour of his mariage. And his bodie fall be imprisoned, vntill he satisfie his parents for his falt, gif the heire be married. And mairover, he fall make satisfaction for his transgression to the King; and this is to be vnderstand of ane heire within the age of fourtene zeares.

1. Gif the heire hes passed the age of fourtene zeares, or mae zeares, vntill his perfite age (*and is of perfite age*) and in defraud of his overlord, maries himselfe without consent of his overlord;

Quon. Attach.

and gif the over-lord hes offered to him ane mariage, without disparage, or dishonour, in this case the over-lord fall deteine and possesse the lands, attour the terme of his age, that is twentie ane zeares, for sa lang time as he may receaue (*and take up*) the double of the valour of his mariage, conforme to the estimation of honest men, or according to that quhilk of before was offered to him for that mariage, without fraud or malice; or sa meikill as the over-lord may proue in the kings court.

OF HEIRES MARIED IN DISPARAGE.

CHAP. 92.

*Hen. 3. An. 9. c. 6.
An. 20. c. 6.*

Gif ane over-lord causes marie the heires of his vassall, being in his custodie, with villans (*or bondmen*) or Burgettes, quhereby the heires are disparaged; gif the heire is within the age of fourtene zeares, swa that he may not giue his consent; in that case, gif his friends complains, the over-lord fall tene and amitt the warde (*of the lands*) vntill the perfite age of the heire: And be reason of the shame and dishonour done to him, all the profite and commoditie, quhilk the over-lord hes receaved be reason of the warde; fall be converted to the vse and vtilitie of the heire quha is within age, according to the disposition and provision of his friends.

2. And gif the heire is passed the age of fourtene zeares, swa that he might giue his consent, and consented to his mariage; na penaltie fall be enjoyned, or follow therevpon.

OF THEM QUHA VVILL NOT MARIE

at their over-lords requisition. CHAP. 93.

*Henr. 3. An. 20.
c. 7.*

ANe heire of quhat state he be, being requyred be his over-lord will not marie, he sould not be compelled to marie. Bot quhen he comes to perfite age, he fall satisfie, and giue to his over-lord, als meikill as he might haue had fra ane other, for that mariage; and he fall giue that before he receaue his lands, forth of the hands of his over-lord, quither he will marie or not.

2. Because the mariage of the heire, within age, be the disposition of the law, perteines to his over-lord.

THE MARIAGE OF ANE HEIRE

hauand mae over-lords nor ane. CHAP. 94.

Lib. 2. c. 44.

Gif ane heire of les age hes heretage descendand fra his father, halden of ane over-lord; and als swa heretage descendand

dand fra his mother, halden of ane other over-lord. It is statute that in time comming, that the over-lord fall haue his mariage, be quhom the heires antecessour, of fatherside, or of the mother side, was first infest. And na respect sould be had to the sexe, nor to the quantitie of the heretage, bot onely to the first and eldest infestment, halden be service of warde and releif.

OF THE REVISING OF ANE HEIRE.

CHAP. 95.

Concerning the revising, or away taking of heires within age, male, or female, quha is mariage perteines to any man: gif he quha revises him, hes na richt nor title to his mariage, albeit he restore and exhibit, the heire not married, or satisfies for his mariage; he fall be punished for his fault, be imprisonment of twa zeares.

Edward. 1. An.

13.c.34.

Hen. 3. An. 3.c.6.

Philp. and Mar.

An. 4. 5.c.7.

2. And gif he restore not, nor exhibits the heire, or after the zeares of mariage, cause marie him; he fall be banished the Realme, and haue perpetuall prison.

OF LANDS TINT BE REASON OF default.

CHAP. 96.

Wha tines his lands be reason of his awin default allanerlie, and not be any other judgement; he may, gif he please, seik that land, be the breive of richt, contrare quhatsoever possessor of that land, and recover the samine be judgement, gif he hes richt thereto.

2. Except in twa cases; gif he made ane default, after he did put himselfe to the Kings great assise, or after the battell was waged be him thereanent.

3. Because in thir twa cases, he tines not onely the possession, bot also he and his heires, tines his clame (of propertie) in all time comming.

DIFFERENCE BETVVIX HERITAGE and conqrese.

CHAP. 97.

It is statute, that the conqrese of any frie man, deceit and vett and faised therein, without heires lawfullie gottin of his awin bodie, ascends to him quha is before gottin; and heretage descends be degrie.

OF

Quon. Attach.

OF THE WIFE, AND SONNE, OF ANE malefactor accused, and not convict. CHAP. 98.

*Ane man after
his deceis may be
forfalted for trea
son. 14c. 5. parl. 6
c. 69.*

G If ane man hes committed felonie, and be dome of court is not convict, his wife fall not tyne her dowrie; nor his sonne his heretage.

2. And suppose he be present in court, to heare dome pronounced against him, and perchance falles downe dead, before the dome is pronounced against him: his wife fall not tine her dowrie; nor his sonne his heretage.

ANE MINOR SOULD ANSWERE TO ANE woman, craue and her dowrie. CHAP. 99.

A Ne minor sould make answer to ane breive of dowrie, or terce: and in this case, his tutour, or over-lord in quhais warde he is, sould be summoned. Because the petition of dowrie prejudges not the propertie and richt of the heire, fra quhom the dowrie is socht. For quhen ane woman seiks her dowrie, that is, the thrid parte of the heretage (*quhilk pertained to her husband the tyme of his deceis*) it is manifest, that after her deceis, the thrid part turnes to the twa parte, and swa the heire is not hurt and disheressed (*heretablie*)

2. Mairover, gif the woman sould tarie vntill the minor cum to perfite age, in the meane time she may incurre and fall in ane extreme povertie, or may deceis, and swa tine her dowrie. And therefore be gude reason the minor suld be compelled to answer.

BARONS MAY COGNOSE VPON ANE theif taken with the fang. CHAP. 100.

B Arons hauand liberties, with sock, sak, theme, thoill, infang-theif, and out-fang-theif, may doe justice in their court, vpon ane man, taken within their fredome, saised with manifest thift, in hand hauand, or vpon back bearand, and is persewed be sicker and sure burghs.

2. Becaus, albeit he be persewed as ane theif, and is not found and taken with the fang, and possession of the thift; it perteines not to ane Baron, to cognose vpon sic thift; nor zit to take tryell be ane assise, quhither he quha was taken without ane fang, is gilty, or not.

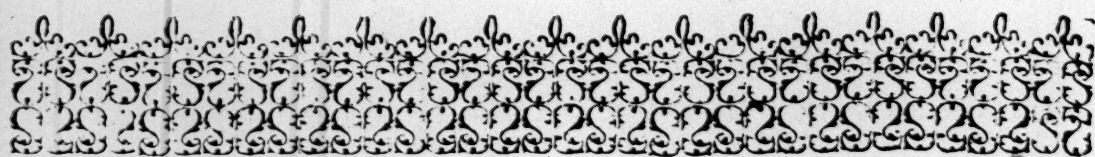
OF

OF THE RESIDENCE OF ANE JUDGE
after he is discharged of his office. CHAP. 101.


Al officiares, as Justitiaris, Chalmerlains, Schirefs, Provest and Baillies, after that they are out of their offices any waies, according to the lawes, they are oblitted to remaine in the samine places, in the quhilk they did exerce their office, be the space of fourtie dayes compleit, and following the tyme they left their office.

2. Nor they sall not hide them selues, nor abyde within the halie, or priviledged places, bot in publick and manifest places, as they did before quhen they were in office, that all men may haue frie libertie, to make their complaint against them.





TO THE READER.

Entle Reader, this Treatise following, and writtin in English language, be some learned lawer, not lang time bygane, as the style of the samine declares: is published with the rest, because it conteines ane interpretation, of divers and sundrie chaptours, of the treatise immediatlie preeceding, as is noted in the margin. And als wa, many profitable principals, and rewles of the lawes of this Realme, worthie to be remembred.





FORME AND MANER OF BARON COURT.

THE PLACE, PERSONS, AND
fensing of the Court.

CHAP. I.



FIRST AND FORMEST,
quhere court sould be halden, their
aucht to compeir at ane certaine
place, within the Baronie (*the quhilk
place is called the chemys*) the Baillic
of the Baronie, with sufficient pow-
er, be letter and seale of the Baron,
with his Clerke, his Serjand, and
lawfull and sufficient soytours.

*The place, and
members of the
court.*

1. And then at the beginning,
the Clerk aucht to titil the court, making mention of day, zeare, *The rolment of
and place, and quhen, and quhere the court is halden; with the the court.*
date of our Lord, and the name of the Baron.

3. And then the serjand aucht to gar call the soytours ains *Soytours.*
simplie; First the ^a out soytours of the court, gif there anybe, and ^a *Dwelland out-
with the Barony*
syne the insoytours.

4. And quhen they all are ains called, the court aucht ains to *The court is fen-
be defended lawfullie, be the serjand in this maner. I defend, and ced.*
biddis, in our liege Lord the Kings behalfe of *Scotland*, and in the
behalfe of the Lord that this court aucht, and his Baillic, that here
is, that

The forme and maner

is, that na man distrouble this court vnlawfullie, vnder the paine that may follow. Or make him to speik for any, but leaue asked and obteined.

Soytours being absent or amerciat. 5. Then fall the serjand call over againe the soytours, and default the absents, that are not lawfullie effonzied; and gar ane soytour of the court, doome them in ane vnlaw, with the consent of his fellowes.

The heid courts 6. And gif he aucht bot thrie soyts, he fall appeare bot at the thrie heid courts of the zeare, that is to say, the law dayes after Michaelmes, the law dayes after Zule, and the law dayes after Pasche.

The eldest actions should be first decyded. 7. And this done, the Clerk aucht to read the rolment of the court, next preceeding before, and quhat cause, or crime was left there dependand and vnended, to gar them be first decerned and ended.

Attachments & soverties. 8. And after the rolment of the court before, is clenged and ended, the Serjand aucht to put in court, the attachments, and boughs that are found in his hand. And to present them first, that in his hand first are founden: For the law sayes, he that first binds him to the law, first aucht to be heard, in court and of law served.

The soverties & cautioners. 9. And the Serjand aucht to haue his boughs present in the place of court, and call them to enter the man attached to the law, quhen it is requyred; and fra they be sa presented to the Bailie, with lawfull witnes; then the Baillie aucht to handle them, as law will.

Witnes to the serjant. 10. And likewise, the Serjand aucht to haue his witnes men, and the borghs of them that are attached, as said is.

11. And the Clerk aucht to inroll them formallie, swa that afterwarde they be halden in fresh minde, as the course of the court rinnis, fra court to court, quhill the mure be ended, and doome be execution of the law.

OF ATTACHMENTS,

CHAP. 2.

Quon. Att. c. 1. **I**tem, it is to wit, that na Serjands aucht to make summons, attachments, nor arreistment to any man, of any gudes or cattell; bot gif he hath there with him sufficient witnes, of leill men and

and frie.

2. And it is to witt, that Attachments are the beginning of all mutes of *wrang* and *unlaw*, and of all mutes quhilks are followed be sicker borgh. And therefore it is necessare alwayes to beginne at Attachments.

3. And it is to witt, that Attachments ar to be called ane lawfull binding, be the quhilk ane party is constrained against his wil to stand to the law, and to doe sic right and reason as he aught of law to ane other partie, that is plenteous on him. *Definition of attachment.*

4. And sic maner of Attachment aught to be made be the Baillie, or the Serjand vnder him, and sworne to doe his office lawfully, after his^a cumming attachments to make, gudes & men to arreist, rebellars to gar abide, that are not law suffer and. *^a After his learning and knowledge.*

5. And it is to witt, that Attachments aught to be made in diverse maners, sometimes they are made in the gudes of the parties defendand to be attached, and fra thine to be halden ay and quhill he have founden sickernes and securitie be borghs, to answer, and to doe law against his partie, that is plenteous on him; and after that be done, and borgh founden, the arreistment on his gudes sall be frelie lowsed and releished. *Attachments of gudes and geir.*

6. And sometimes Attachment are made in the bodies of somemen. *Attachments of mens persons.*

7. And gif he flees from the **Bullie**, or fra the Serjand, and will not thoill the attachment be the bodie, all his gudes aught to be arreisted quhill he come and thoill attachment, & finde sicker borghes, to stand and abide to the law; at the sute of his partie, on him plenteous, and sa it falles in all maner of mutes.

8. At the beginning the attachment to be presented lawfully in Court. Sa that it beand done, the partie followand may propone lawfullie his appeill, or his plaint in lawfull forme, of the quhilk he findes him ingrieued.

OF CITATION, OR SUMMONDES.

CHAP. 3.

THe Attachment being lawfully made and delivered, then aught the summons to be followed as law will.

2. And it is to witt, that summons is ane warning and soyte to ane certaine day, betwix twa parties followand and defendand in judgement.

S

3. And

The forme and maner

*The number of
daies.*

*Summonder, or
executer of sum-
monds.*

*The place of the
execution.*

Witness.

*Summonds of the
ground of the lād*

Summonds.

3. And in mutes of wrang & vnlaw, ane lawful day is 15. daies.

4. And al summonds aught to be made be officiars present, and sworn in court thereto, and be others aught na summonds to be made.

5. And it is to witt, that in all sic mutes of wrang and vnlaw, the summonds aught to be made at the house, quhere the partie dwelles, and is resident, and into nane other place.

6. And the summonder aught to come to the house of the party defendand, with twa witnes men at the least, and summond him to appeir at certain place and day, before ane certain Baillie, of sic ane Lord, to answer to sic ane person be name, vpon certain querrell, as of debt, or of transgression: Swa that the party defendand may wit vpon quhat thing he sal make answer, & the summonder fall haue with him his witnes; quha of all his summonds fall beare witness, as they heard and saw.

7. And it is to witt, that in all mutes of lands, or tenements, quhere service is asked, or shawing of Charters of tenements; then aught the summonds to be made at chiefe tenements, of the quhilk the service asked is aught.

8. And gif sic ane man halds of ane Baron, the witnes aught to be of diuerse Baronies.

9. And quha sa is summoned, aught to be monished of the space of fourtie daies, to shaw his halding, within the quhilk time he may haue thrie^a monitions of the time before said.

OF FINDING OF BORGHES BE THE PER- sewer, and defender, of arriestment and attachment.

C H A P. 4.

*Ane borgh sculd
be found be the
persewer.*

*the persewer sculd
take his harmes
or modifie his
skaith sustained
be him.*

*The defender is
summoned, and
finds ane borgh.*

Item, quhere any partie feiles him aggrieved be any other partie, he aught to take with him ane sufficient man, and gang to the Serjand of that jurisdiction; and say to him, that sic ane man hes done to him sic a trespas against the law: quherefore he finds ane borgh into his hand, to follow him in forme of law, taxand at that time, at the finding of his borghs, his harmes and skaith in certaine quantitie, and takand therevpon certaine witnes, swa that na default arise betwix him and the Serjand afterwar.

2. And then this borgh being found and lawfullie receaved; the Serjand aught als haistlie as he my see him, within the lordship, or jurisdiction, to take with him twa witnes sufficient, & attach

raich him be ane sufficient borgh answerand, and responsal for the *Quon. Att. c. 64.* summe of the taxed harmes.

3. And the Serjand aught to declare to the partie defendand, in his attachment, the speciall pointe, and the action, vpon the quhilk he suld answer to his partie, at ane lawfull day, and steid, sa that he may in the meane time, be advised to answer of that pointe to his partie aduersar for outten oppression.

4. And gif the defender be sic ane man, that withholdis him malitiousslie, and fraudfullie out of that jurisdiction, differand his partie from reason of law, that the Serjand may get of him na attachment: Then aught the Serjand to ga with witnes to his house, and his gudes, gif any he hes within his jurisdiction, and thereof to make ane arreist of defence. And siwa gar it be halden quhill he that aught, it come and thoill lawfullie attachment, and binde him be borgh sufficient, to answer to his partie as law will. *Of the defender fleeing from attachment.*

5. And that being done the arreist before made of his gudes aught to be releished frelie, and delivered to the partie, and then he aught to wait vpon his lawfull day.

OF ANE SERIAND NOT MAKING
attachment vpon the defender.

CHAP. 5.

ANd it is to wit, fra the follower haue founden borgh lawfullie, in the Serjands hand, to follow any partie of quhat action sa ever it be: And the partie defendand come afterward, within the jurisdiction of that Serjands office, and he him sees and knawes, and makes not of him attachment, that ilke Serjand aught to be condemned in the harmes of the follower; bot gif he may shaw and proue in his office doing, to be deforced be him, that he sould haue attached to the soyte of the Court, or of the follower.

OF ESSONZIES AND DEFAVLTS
made be the persewer or defender.

CHAP. 6.

ITem, ane certaine lawfull day being given to the parties followand, and defendand be the Serjand, ilke party of them that will,

The forme and maner

will, may make thrie defaults, and syne thrie elsonzies be the Baron lawes.

2. And nevertheles it is scene to men of law and reason, that the partie followand, sculd ay be readie, and neither make default nor elsonzie. Because he sculd be well counselled, and fullie resolved of his action, before that he binde him to persew the partie. And nevertheles, it is over all quhere, now suffered for winning and vantage of the Lords Court, that the follower als wcl as the defender, hes defaults and elsonzies.

OF THE PERSEVER COMPEIR AND the first day, and the defender absent.

CHAP. 7.

*Verification of
the summons or
attachment.*

AT the first day, gif the partie followand, appeirs to make soyte at the finding of his borgh; and the partie defendar d, absent him as be ane default, then aught the Judge to garre the Serjand proue that he attached him lawfullie, sic ane day, sic ane ze are, and steid, be sic ane borgh, to answer to sic ane man follower be name, vpon sic ane action; and then all his witnes to sweare that they by were, heard, and saw, and for witnes men wer taine, quhen sic ane attachment was tane and made. And that proved, the partie followand, aught to aske judgement of Court, how he and his partie aught that day to departe.

2. And then the partie followand, cut of the Ceuit removed, and the Court counselled and advised, and he againe incalled, and the Court entred, ane soyteur aught to say in this maner, This Court hes looked for law, and I giue for dome, that the partie defendand is this day in ane default.

*The borgh fund
be the defender, is
summoned to the
secund and thrid
Courts.*

ANE DISTRES TAKIN FROM THE DE- fender for his default, in the first, secund, and thrid Courts.

CHAP. 8.

*^a As prouid.
^b The vnlaw.*

THereafter the Serjand that ilke day, fall gang with witnes men, to the house of the borgh for the defender: and for that ilke default, take ane distres ^a sufficient, for the ^b amerciament of the Court.

2. And

2. And let it to borgh gif he may to the next Court; and richt there summond him as borgh, to gar appeir the party defendand be name, as he that was his borgh, till enter him to the soyt of his partie be name, at the next Court thereafter, and therevpon take witnes men, that he may in the next Court, follow and proue the taking of the distres, and the leting it to borgh. And this order fall be keiped quhill the thrid Court day.

OF THE PARTIE DEFENDAND COM-
peir and the thrid day.

CHAP. 9.

GIf the Serjand proues not first and formeist the attachment lawfullie made, and then afterward the summons of the borgh of ilke day that the partie defendand makes either default or elsonzie, and the maner of inrolling formally: The party defendand the thrid day, gif he likes to appeir, he may debaite, and annul all that proces lawfully, becaus of the attachment, or then of the summons not proved: Or gif the Clerk hes not rolled the Proces formally, for quhere the principal and the beginning failzies, the members most be of na force, stand, nor vertew in their awin kinde.

2. And vpon the thrid day, it behoved the partie defendand to compeir, or then as not defended, and for null defence to tinc his action. *Quon. Att. c. 58.*

3. And gif he will that day compeir, he aught to say at his compeirance in court, quhen the Serjand hes called himself lawfullie. *Sirs* I appeir heir before zow to mend my defaults, and warand myne elsonzies, gif the elsonzies hes bene lawfullie made.

4. For vpon the fourt day he most either send to elsonzie him lawfully, or come himselfe personally, for that day is peremptour.

5. And gif he makes elsonzies, and sends ane for him, he fall *The Effenzier* begin vpon the thrid day, the quhilk fall say, I elsonzie sic ane *for the defender.* man be name against the Judge and Partie, and any that hes to say against him at this day: And theretill I finde a borgh, and pas his way but mair demand.

6. Then^a he may aske reading of the inolment, and heir^a ring of the proces on him laid, day by day, fra the beginning of *Viz. The defender compeir and personallie.* the

The forme and maner

the mute, till that ilk day of his appeirance, quhither it be first, second day, or thrid day.

7. And it is to wit, that the Serjand fall distres the bergs ilke day of the proces with witnes, as it is before said, allwell in the effonzies, as in the defaults.

*The defender co-
peir and the ferd
court, may vse al
dilatours, and o-
ther exceptions.*

Lib. I. c. 6.

8. And gif the partie defendand may finde any advantage for him in the Proces, or in the Rolment, he may cast the Proces, saying, that he was attached vnlawfully vpon ane halie day, or that na summons was made to him, or to his borgh, indurand the time of the Proces; for vpon ane halie day all Proces sould cease, & officers mouths are closed, or it was made vnlawfullie vnder Sunne. Or that any fault is in attachment, summons, witnes, or proves; and therevpon aske doome in Court with ane borgh. And swa receid quite as at that time, quhil he be new there to againe attached.

ANENT THE DEFENDER COMPEIRAND the fourt day, and vsand na defence.

CHAP. 10.

Quon. Atta. c. 4.

GIF the partie defendand will not vse any exception or defence dilateur, or vther against the rolment, nor the proces on him laid; then aucht the Judge to aske the partie defendand, gif he can ought reasonable say for himselfe, to saue his defaults, and warand his effonzies: gif they be made all, or some, for the quhilk he hes entred his distres, in plane court, and ane bourgh found, to make that distres gude and sufficient.

2. Gif he ought can say reasonable, it fall be allowed as law will.

*Ane vnlaw sould
be taken vp for ilk
default, or effon-
zie, that is not
lawfully excused.*

3. And gif he not say for himselfe, then aucht the Baillie, or the Judges of the Court, ask doome, that these defaults, or effonzies, the quhilks the defender could not excuse, nor saue be reasonable, are turned ilkane in amerciament of Court, and sait aucht to be decerned, and deimed be law.

OF THE SUMMONS OR CHALLENGE

admitted to probat. on.

CHAP. II.

GIF the partie defendand, propones na lawfull exception; then aucht the partie followand, to proue his action, in forme of law, and finde ane borgh to the Baillie, for that effect: and there-
after

after most proue, that sic ane day, zeare and steid, sic ane man be name did till him, sic ane trespassie, wrangoullie, and against the law, till his harmes and skaiths of sic ane quantitie.

2. Quhilk skaithes, he most taxe in sa meikill, and see, and attend that the taxed skaiths, be within the principall action, say and in the end of his challenge, that he is readie to proue quhen law will, gif he hes any lawfull prufe.

3. And gif the partie followand, be adjudged to proue at ane certaine day and steid; at the quhilk day he is absent, or then present, and proues not lawfullie his intent, as he was ordained be the court; then may the partie defendand, ask doome and judgement of court, that^a he is past quite of his challenge, and sa aught it to be of law. For the persewer failzeing in probation, the defender sould be atfoilzied.

Of the persewer failzeing in probation.

^aThat is, the persewer tynes his clame becau'e he hes not prouen it.

OF DIVERS KINDES OF PROBATION.

CHAP. 12.

QWhatsomever person wil proue ane debt, he sall proue it with twa leill men vn suspect, that heard and law, and for witnes were taine at the time of the condition.

2. And otherwaies it may not be proved, bot be obligation, or be grant and confession of the debtour.

3. And prufe may neither be added, or lessed in number, after that ane certaine number is assigned to the partie proueand.

Quon. Att. c. 81.

THE DEFENDER MAY ACQUITE HIM-
selfe, gif the persewer hes na probation against him.

CHAP. 13.

GIf the partie persewand hes na prufe, then aught the partie defendand to acquite him, anent the challenge at ane lawfull certaine day.

2. And gif he be adjudged to his acquittance, he aught to find there ane borgh, till the Baillies of the Court, richt swa as is said of the parties persewand.

3. And it is to wit, that this is the maner of acquittance, till ane man, till acquite him as law-will, of ane summe of debt, at the next court, he sall acquite him be himselfe, and fiue leill men vn suspect, sweirand with him; and he sall sweir in his acquittance, that

Oportet actorem, aut probare suam intentionem, aut eam referre iuramento partis aduersae.

Quon. Atta. c. 81.

Forme and maner of acquittance

The forme and maner

that he is not aught and to him sic ane summe of debt, and he shall sweare that he leids them quhom he brings in acquittance, as leill men, and not in vaine.

4. And they shall sweare thereafter, that his eath is baith gude and leill.

*Of the defender
failzeing in his
purgation.*

5. And gif the partie defendand being vpon his negation adjudged till his acquittance, till ane certaine day, and steid, at the quhilk day, he comes not, as he was ordained, or comes and failzies in his acquittance: Then may his partie followand, ask dome and judgement of Court, that he is come to the recoverance of his principall summe and debt, and his taxed harmes on him, that failzies of his acquittance.

ANENT THE EXECVTION OF DECREITS OF DEBT.

Quon. Att. c. 17.

CHAP. 14.

I*Tem*, it is to wit, that ilke Judge before quhom any pley, or Imute is lawfully recovered, aught to tak sickernes of the sum recovered before him lawfully in judgement, be course of common law; or else he aught of law to allyith the partie of his recoverance, as he were debtour himselfe, within lawfull time.

OF THE TIME, FORME, SUPERIOR JUDGES, AND UNLAW IN FALSNG OF DECREITS.

CHAP. 15.

Quon. Att. c. 13.

I*Tem*, it is to wit, that gif judgement be giuen contrare the common law, against any partie followand, or defendand in any kinde of mute or pley, the partie against quhom that judgement is given; may of law againe say the samine, richt there and incontinent, gif he be present, or else tinc his cause.

2. The quhilk partie, shall say, in this maner incontinent, fra the dome be given or he steir his taes, quhere his heill stude. That dome given be the mouth of *J. soytour of B.* is evill, false, rotten and stinkand in the selfe, and theretill ane borgh, and then he shall alligne ane reason, makand protestation to giue vp the remanent of his reasons within fourtie dayes.

3. And gif he hes na bourgh ready, he may strike his foote downe, and say, here I sett my foot downe quhill I finde a borgh.

4. And then he shall abide with the Judge, quhill he finde sufficient, and distrenzeable borgh to that courte.

5. And

5. And gif the partie against quhom the dome is given, be absent; of law, he sall haue fourtie dayes, to againe say it: and close it with his reasons, vnder his seale, and giue it to the officiar of that Court, quhere the dome sall passe to be decerned.

6. And gif the dome be againe said in the Baron Court, it aught to be againe called in the Schiref Court.

7. And gif it be againe said in the Schiref Court, it sould be knowledged in the justice Court.

8. And it be againe said in the justice Court, it aught to be againe called in the Parliament. And swa fra court to court be degries ascendand to the heid court of all, that is the Parliament.

9. And it is towit, that in great danger is he that againe sayes any dome, or judgement, and it be knowledged, and decried against him, that is to say, for ilke soytour of that court in ane vnlaw.

10. And gif it be knowledged against the soytours, ilke ane of their maisters, is in ane vnlaw of that court, that their soytour. consented, or them selfe to that dome.

*IT IS LESOME TO APPELL TO THE
Parliament, fra the quhilk there is na appellation.*

CHAP. 16.

IT is lawful to the appeiller appeilland fra ane court to another; to gaine say any judgement given against him, als oft as it is knawen given against him, findand borghs lawfull for ilke dome gaine said, fra court to court; till it be decried and knowledged against him, or with him be the Parliament, fra the quhilk na appellation may be made, na knowledge taine; because it is the hiest court of the Kinrick, and ordained for remeid of all courts vnderit.

*DOMES OF BURROVVS SOULD BE
falsified before the Chalmerlane.*

CHAP. 17.

All judgement againe said in the Burrow court, aught to be knowledged, and decried before the chalmerlane; that is to say, takand of Edinburgh, Striviling, Lanerk and Linlithgow, of ilke burgh thrie or foure of the most discriet Burgeses, with
suffi-

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sufficient and lawfull commission in proper person, for to appeir at the Burgh of *Haddington*, before the Chalmerlane, be summons or letter to ilke ane of them made, and there be knowledge in judgement of the foure Burrowes, the richt or the wrang to be knowledged and decreit.

2. And it is to wit, that sic ane Court, quhere the foure Burrowes are assembled together before the Chalmerlane, to knowledge the judgement that is againe said, in the burrow Courts, stands to Burges, as finall decreit in Parliament, makand end of all thing before them done.

Quon. Atta. c. 58.

OF THE PERSEVVER NOT COMPEIR- and the thrid day. CHAP. 18.

IN quhatsumever Court any man hes mute of debt, or of wrang and transgression; and on the thrid day, gif the partie persewand makes ane default, he fall be arretted and esteemed as not followand: And then the partie defendand may aske judgement, as he that there appeirs, and his partie not appeirand, nor nane in his name till him make soyt or following, and that therefore he is quite past fra his challenge at that time. And that his party and soyte makand, is left with the King, and the Court in their mercy.

Securite.

2. And swa it is, and aught to be deemed, be that ilke Court, and the borghis of him, that is condemned, aught to be ^a sickernes to the partie of his recover, and to the Court of the vnlaw.

MODIFICATION OF THE EXPEN- ses of pley. CHAP. 19.

Item, it is to wit, that in all mutes and pleyes of debt, the harmes aught to be taxed, within the price of the summe of the principall action, thrie halfe pennies.

2. And gif the Judge take it higher, the defender may aske dome of his vnreasonable and wrangous soyt, for quhy, he taxes his harmes exceidand the principall; and swa be exception peremptour, he may slay, and destroy the Proces, and fra his partie quite away to receid, leaueand him with the King and the court, quhill his partie be new attached againe, till his soyte with ane new borgh.

THE

THE FORME OF CHALLENGE, OR
of libell. CHAP. 20.

Q^uon. At. r. 80.

Alswa it is to witt, that in all mutes and narrations lawfullie, and formallie made; seaven tearmes aught to be named, and keeped as ane mute of wrang and transgression, that is to witt, the names of the parties, or actornayes (*gif the querrell be mute be actornay*) the day, zeare, the steid, & the cause of the querrell, the harmes in certaine quantitie, say and in the end of the challenge, wrangouslie and against the law, with ane borgh of wrang and vnlaw, in harming and skaithing of him of sic ane summeles or mair.

OF THE PERSEVVER OR DEFENDER
warned to heare deciet pronounced. CHAP. 21.

Item, it is to witt, that quhatsoever parte be journeyed in quhatsoever Court, and the Baillie of that Court assignes ane certaine day and steid to them, for to receave fulfilling of judgement, or dome be them asked; or gif that ilk Court be shut, or continued, and that day any partie of them, betwix the quhilks the judgement is hingand, be absent, for quhatsoever cause it be, in the day of the hearing of the judgement, the dome of law and reason, aught to be given against the partie absent, because of none defence.

OF EITHER OF THE PARTIES FAIL-
zeing, or being absent in the time of probation.

CHAP. 22.

GIf any partie followand, challenges any partie defendand, *Of the persever absent.*
of any querrell in forme of law, in quhatsoever Court it *Stat. 1 Rob. 1. c. 30*
be, and the follower be adjudged, to produce witnes, to proue his intent, after the maner and custome of the Court, or of any prufe lawfullie against his partie defendand at certaine day and steid to him given and set in plaine court be the Baillie, and afterward the partie followand, that day adjudged to produce his prufe, being absent; his partie defendand (*against quhom the prufe* *Circunduction of*
ould have bene led) be and in that Court present, to see that prufe *the terme of pro-*
to be receaved against him; the partie followand for that time *bation.*
forth fall tine the benefite of his prufe.

2. And

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2. And gif the partie defendand that day of prufe, be absent; and the party followand being present with his prufe in his hand and swa the partie defendand be not ready or present, to receiue the prufe against him; the partie may finde ane borgh, that he is quite of that challenge, and the prufe is at the end, and that he is come to his recover. And swa it is, and aught to be of the law; for the law sayes, that prufe, acquittance, or straikes of battell, are end of mute, like as dome vngaine called.

OF THE PARTIES NOT COMPEIR AND in time of acquittance. CHAP. 23.

Stat. 1. Rob. 1. c.
30.

ALswa it is to wit, that gif any man be adjudged to make this purgation, and quitance in forme of law, after the maner of the Court, against the partie followand, and at ane certaine day, and steid till him set, and assigned be the Judge in full court: And afterward the partie defendand is absent, at the day limite; the partie followand being present the defender aught to tine the effect of his purgation.

2. And gif the partie followand be is absent, and makes ane default; the purgation aught to pas against him being absent.

3. And gif baith the parties that ilk day be absent, they aught to be baith amerciat at that time, and journeyed be the Judge till the next Court. The partie defendand to make his purgation, and the partie followand to receiue it, and heare it be made.

OF ATHER OF THE PARTIES NOT COM- peir and the third day. CHAP. 24.

Quon. Att. c. 58.

ANd als swa it is to wit, that quha sa mutes any partie in Court to the third day, quhither it be mute of debt, or of wrang, and transgression: And the third day the partie followand is absent, and makes ane default, the partie defendand being present, the partie followand fall be adjudged as not followand, and he fall be amerciat, because of his borgh found, and not followed, and he fall against his partie tine his action.

2. And gif the partie defendand is absent, and makes ane default, the partie followand being present, the defender fall be adjudged as not defendand, and amerciat for his borgh finding, and not defended. And he fall tine his principall action and his defence

defence against his partie him followand.

3. For on the thrid day lyes na defaulte nor essonzie of law, bot gif it be *mal de lit*, that is bed evill, and that aught right there- to be freshlie proven betwaleill men, or then he be in the Kings service; the quhilk he aught to proue at the next Court be the Kings letter therevpon purchast.

OF REPLEGATION OF ANE MAN

fra ane Court to ane other.

CHAP. 25.

Quon. Att. c. 8.

Alswa it is to witt, that gif any partie followand, mutes any partie defendand of wrang and vnlaw, or of debt, the quhilk partie defendand hes ane lord, and ane Court of his awin, hee aught to compeir to the Court, quhere he was borgh fast; for re- leif of his borgh with his Lords Baillie, with full power in his hand, his Lords letter and seale hauand, and heare the challenge of his party followand, and before he deny it, he aught first to ask his Lords Court, with his Lords Baillie there beand the power in his hand, reddie to shaw to the Judge, and his partie.

2. And gif the Baillie hes not at that time his Lords power in his hand, he aught not to haue him to borgh, to his Lords Court.

3. And he being borrowed to his Lords Court, he aught to leaue ane borgh, that is called *Culreauch*, behinde him in that Court, out of the quhilk the defender is borrowed, to this effect, that gif the partie followand gettes na full reason of the defender in that Court, to the quhilk he is borrowed, he fall haue regrestle a- gaine to the first Court, and there fall the mute be ended, and the *Culreauch* to be in ane vnlaw, and answeere for the partie, gif he appeares not to the partie followand.

*Caution of Cul-
reach.*

4. And the Lord that failzies to the partie followand of law, gif it may be proued with witnes of sundrie Baronies, that then present were, that Lord aught to tine his Court twelfe moneths and ane day.

5. And gif the Lord of the Court, to quhom the defender is borrowed, hes diuerse Courts; he quha borrowes him, fall assigne to the persewer ane certaine day and place, quhere he fall come, and follow his clame.

6. And it is to witt, that in the first clame and Court, gif the defender denyes the action vtterly to the partie challengand
T him;

*Denyall of the
clame, or litifcon-*

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restation stops re-plegiation. him; he shall abide right there, and not be borrowed, vntill the mure be ended.

FOR WHAT CAUSE THE LORD MAY tynes his Court. CHAP. 26.

Quon. Att. c. 9. **I**Lke Lord may tyme his Court of law, twelfe moneths and ane day. And gif he holds his Court in tyme defended of law, that is to witt, fra Zule girth be cried, quhill after the law dayes, or within the tyme of Haruest, or then before the thrie Schireff Courts, or mutes.

2. But gif it be vpon ane Brieve of right, the quhilk be course of law, runnis and continues al times of the zeare, fra fiftene dayes to fiftene dayes.

THE CHALLENGE OF STOLLEN cattell. CHAP. 27.

Quon. Att. c. 10. **I**tem, it is to witt, that quhatsoever horse, ox, or kow, or any uther cattell elonged wrangouslie fra any man, the quhilk be findes afterward in the possession of any man, he aught to finde ane borgh in the hand of ane officiar, vnder quhais jurisdiction he finds that ilke beast, and make lawfull persute to it; and aught that ilke cattel quhatsoever it be, to be attached, and given to borgh to him that hes it, in his possession; before witnes to appeare that beast, in hide and haire, at certaine day and steid, to the challenge of him that layes clame therevpon.

2. And it is to witt, that the beast right there aught to be pryed, to ane certaine pryce, be the eathes of twa leill men thereto sworne, at the bidding of the Officiare maker of that Attachment; the quhilk summe apprysed shall be entered in that Court.

3. And gif that ilke beast, before the day of the Court, be stollen thifteouslie, the pryce sworne, aught to be entered in the Court.

4. Or else the beast sould be proven dead be ane eath. And gif that beast in the meane tyme be sworne dead, he aught to bring with him in prufe to the Court; the toppe and the tail of the beast: And that done, he shall enter for it the summe that was pryed be the sworne men, that pryed the samine before: The quhilk summe swa entered, the follower shall say, Quha awowes this gude?

5. And

5. And gif any clames to an warant of that gude, he sal haue day to bring his warant to the thrid warand.

6. And then fall the follower hamchalde his gude, as after followes: And gif it swa fallis that after all defaults and cllonzie be the partie defendand made, the cattell (*as horse, or other, quhat fait be*) to be entered in Court, to the soyte of the partie follow- and: It aught to be^a acknowledged in this maner; I *Robert* sayes ^a *Challenged.* to thee *Richard*, that this horse, oxe, or kow, or other beast quhat soever it be, is my leill, lawfull, and hamchalde cattell, or my inborne foister, the quhilk was thifteouslie stollen fra me, fra sic a place, sic ane day, sic ane zeare, and fra me withhalden, sic ane tyme.

7. In this case, the follower fall be ware, quhither the Court hes power of life, or limme, or not; for and the follower make challenge criminall, and the Court haue na power thereof; then may the defender lett him with ane borgh, quhill he be new attached againe to the law, because he challenged him criminally, and the Court had na power thereof.

THE CHALLENGE OF ANE VVAIF BEAST.

CHAP. 28.

ANd it is towitt, that touching ane beast that is elonged, and awavered away from his maitter; the folower sal make challenge in this maner: That horse, or that beast is mine hamchalde gude, and wrangouslie elonged from me, against the law, in hindering or skaithing of me, mair or lesse, after the quantitie of the harmes, in the meane time sustained; the quhilk cattell, horse, or oxe and kow, I am readie to hamchalde as law will. *Quon. Att. c. 48.*
Infr. c. 65. b. t.

2. And gif the other partie avowes that cattell, quhatever it be, proponning the titill and maner, how it came to him, as be buying and selling, or other lawfull titill quhat soever it be, denying wrang and vnlaw, and the harmes on him taxed, be the right of the challenger vnto that beast, say and that he hes lawfull warand of him, from quhom it to him came, the quhilk he aught to name be name, and aske lawfull day, and to bring his warand of that ilke beast to the Court.

3. And thereto the ludge aught to giue him ane lawfull day, that is to say, gif he clames warand bezond *Forth*, he sal haue fourty dayes to bring forth his warand, and gif he be vpon this

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halfe, he sall haue twentie dayes.

4. And fra he hath broght forth his warand, at lawfull day to him assigned, he aught to tine, or leaue the beast in the hand of the warand.

5. And the beast being in the hand of his warand, he aught to take ane borgh of him, gif the cattell be win from him lawfullie, to assyth him of the pryce; and then the follower to make new persute, or challenge against that warand. And then behoues the warand to make answere, and defend for that ilke cattell, or else tine it.

6. And swa it may be defended, and delayed to the thrid warand, and na farther. For it behoues him alutterlie to answere thereof.

7. And gif there was na cause reasonable, to halde that ilke beast or cattell; bot gif it be in default of na lawfull soyt, the partie till it folowand, will hamechalde lawfullie, the said gude, and with him away haue.

8. And gif it be ane beast, as ane horse, or ane ox, the buke aught to lye betwix the hornes, in the front of the beast, and the challenger sall sweare with twa witnes, that, that ilke beast, quhat- ever it be, fra him was elonged, as he before shew in his clame: Na it was never from him given nor fauld, nor na other maner annalied be him. And this sworne be him, he aught to haue the beast with him.

OF HIM *QUHA* ALLEDGES TO ANE warand, and failzies thereintill. CHAP. 29.

Lib. 2. 22.

IT is to witt, gif any man clames lawfullie to any warand, before any ludge in Court, for faistie of any cattell, of the quhilk he is in possession, and day, and steid, theretill be the ludge to him is giuen; the quhilk day cumming gif he failzies of the forthbringing of his prufe, he aught to tine his cattell, or other thing challenged, with the harmes on him taxt be the challenger, and als wa to remaine in the amerciament of the Court,

HE *QUHA* IS CALLED FOR VVARANT may not be repledged fra that Court. CHAP. 30.

Quon. Att. c. 10.

ITem, it is to be vnderstand, that in quhatsumever Court, and I warand be any man is called in any action, that afterwarde
that

that mute most there stand, and remaine to the end, vntill it be fullie ended and determed. And neither may he that calles the warant, nor he that appeares in the Court as warant, lawfullie aske his Lords Court, nor yet may he be borrowed thereto be law or reason.

OF RESTITVTION OF POYNDS AL-
ledged wrangouſlie taken. CHAP. 73.

Quon. Att. c. 11.

GIf any man finds borgh in the Schiref Court, that ane other man hes poynded him wrangouſlie, and against the law, as vpon debt plainly denied: the Schiref aught to gar his poinde be delivered to him, vnder this maner, that he fall finde ane bourgh to enter that poynde at the Schireff Court, and to followe him, that poynded him wrangouſlie, and the other poyndand fall be attached with ane borgh, for to answere to his foyte.

2. And the poyndes aught to be in the seasing, and possession of the partie plenzeand, quhill it be discuffed be the Court, quhither he be lawfullie poynded or not.

3. And it is turned in doubt, quhither the Lord of any sic partie may draw his man in sic case, out of the Kings Court, to his awin Court: Sen OVR SOVERAINE LORD the King be his Schireff hes made deliverance of the poyndes to the partie plenzeand. Bot it is answered, that he may not, for the reason foresaid, seeing it was lawfull to the partie plenzeand to seik the Kings officiar for deliverance of his poindes wrangouſlie taken from him.

OF THE MANER AND FORME TO
challenge thift. CHAP. 32.

Quon. Att. c. 12.

ITem, it is to witt, that the mute of thift, quhere any man challenges ane other of thift, be words of law, sayand: That thou **U**. came sic ane day, sic ane zeare, sic ane night, to sic ane place thifteouslie cumand, and thifteouslie gangand, and thifteouslie stall sic ane gude of sic ane pryce lesse or mair; taxand his harmes on him to the summe of ane hundreth markes or mair, after the qualitie of the person, and the quantitie of the trespasse; The partie defendand may denye the thift, and all that thift pertaines.

2. Ane it is lawfull to bind him to ane assise, gif he will, and

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thinks that he is well and trew of that action.

3. Or then he may defend him be his hand, say and, thou failles, and sayes not the veritie, and that I fall defend be my hand, as ane frie man borne.

4. And then behoues him to haue sufficient borghs, to answer to the partie followand, of his taxed harmes before said; gif he happens to failzie in the battell.

5. And gif sic borgh may not be founden, he fall pas to the knowledge of ane assise, quhither he will or not.

6. And gif he be made leill be the assise, he fall pas quite of the challenge; and the partie followand fall be americiat for his foyte.

7. And gif the partie defendand be condemned be that ilke assise, his Lord fall take his gudes within his awin Lordship founden, quheresoever they be. And his gudes that are founden in o-ther Lordships, aught to bide with the Lord of that Lordship, in the quhilk sic gudes are founden: Sa that these Lords haue sic Courts, in the quhilks eschiets may fall and be judged.

8. And gif he hes na sic Court, the gudes fall remaine to the King.

9. And the wife of that man sa condemned be encheson, or be reason of thift, sal not be punished for the thift of her husband als lang as she is vnder his wand: But gif the thift be found vnder the keyes, that she beares, as of cist, arke, or coffer.

CHALLENGE OF ROBORIE.

Quon. Ass. c. 13.

CHAP. 33.

IN the Court of roborie, ilk frie man may giue and yeild dome on quhat partie mutand that him likes: Swa that he finde ane borgh to answer afterwarde, gif that dome be againe said.

2. And als wa he that zeilds that dome, be not of his menzie, nor weirand his robs quhen he gaue that dome, or of that counsell, nor zit partie before with him in that cause.

3. And gif it be againe said, at that time; be any partie being present, it behoues him to assigne ane reason incontinent: and gif he be absent, he may haue fourtie dayes to giue vp his reasons, as is before said in this Buke.

Supr. c. 15.

OF

OF THE CAUSES AND MANER OF CON-
tinuation of ane proceſſe or pley. CHAP. 34.

Quon. Att. c. 14.

GIf any judgement for any cauſe, before ane Judge, be asked be any partie followand, or defendand be put to the next Court in reſplict, becauſe of better adviſement, as they may doe of law, anis, twiſe, thriſe; it is not lawfull to either of the parties, betwix the quhilks the judgement is dependand any moe reaſons thereto to ſhaw, nor zit for to add or to eik, but allanerly they that were ſhawin, and proponed in the beginning of the mute: nor zit farther in that mater or mute to proceid, quhil the judgement dependand betwix the parties be fully given and declared.

2. And gif the ſoyters ſayes on the thrid day, that they can not giue dome, then they aught to ſweare that, ilke ane be ane eath. And then aught the judgement to be ſent to the next Court aboue to be decerned, ſaifand to baith the parties, the benefite of law, touching the giuing of that judgement as law will, quhither the partie be then abſent or preſent.

OF THE POWVER OF SOYTERS.

CHAP. 35.

Quon. Att. c. 5.

IT is to witt, that ilke ſoyter of Baron, in the Schiref-court, may there, for his Lord, mute and anſwere without impediment. And there in abſence of his Lord, borrow men attached, to the Court of his Lord, be reaſon of his office.

2. But that he may not doe in nane other ſteid, without ane letter of Baillerie; nor yet he may not mute there, for nane other but actornay, without leaue of that Judge of that ilk Court.

OF ANE SVSPECT JUDGE.

CHAP. 36.

Quon. Att. c. 18.

WHere any judgement is asked betwix twa parties in any court, and the Judge of the Court is ſuſpected be any of the parties, the partie that ſuſpects, may aſke lawfull removing of that ilke Iudge out of that Court, quhill the warde and judgement of that ilke Court be diſcuſſed.

2. And that Judge aught to be againe incalled to ſit and hear the dome giuen to any parties, betwix the quhilks it was asked and ſpeired.

3. For

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3. For it is openlie to vnderstand, that na dome aught to be given to any partie, but quhere the Judge is sitand in the Court, in the time of the giuing of the judgement: For law sayes, quhere dome is given foroutten Judge sitand, that is na dome of law.

OF THE OFFICE OF ANE JUDGE.

Quon. Ast. c. 16.

CHAP. 20.

ITem of law and reason, na Baillie, nor Judge of Court, may make him to intromet, betwix the parties in their pleade, bot themselfe and their counsell.

*Ane Iudge sould
not be partiall.*

2. Bot it is lawfull, and in the law leaued to ilke Judge of the Court, to informe the soyster that they sall giue the doome in forme, and that these soysters amang themselues be fullie accorded, before the enterie of the parties in Court, to heare the giuing of the judgement.

3. Bot it is to be vnderstand, that fra the parties be entered in Court, to heare judgement, that it be not lawfull to the Iudge, nor na soyster, to prompe, nor prively to informe him, that sall giue that ilke dome, fra the parties be called for to heare it. For the law sayes, that ilke judgement lawfull, sall be given and zeilden, clearlie out of the mouth, and be ane tongue.

4. And it is to witt, that the Judge is not sett in Court, to sustaine any partie in mute before him, bot to be ane eaven Judge, in like to everilke partie.

Buddis and gifts 5. For quhosoever is ane right Iudge, he sould haue ane Balance in his hand, and weigh the law, even alike to every man: for it is said in the law, there is na fouller thing, nor to take giftes in judgement, for quhy, giftes blindes the hearts of wisemen, and overturnes the words of righteous men.

6. And therefore thou Judge beware, for as ye deme, ze sall be demed. And therefore thou Iudge, feare God, be and Judge of all, that throw his judgement thou be not condemned.

7. Na Prince, nor gude Governour aught to make fooles, or vnworthie persons to be Iudges: for quhy, ane foole throw his ignorance, misgovernes righteousness; and ane vnwortie bodie, throw covetice, overthrowes the veritie.

8. And in foure maners the righteousness of ane Judge is overturned and perverted, that is to say, throw feare, throw covetice, throw hatred, and throw loue.

9. Throw

9. Throw feare, as quhen throw the doubt of any mightie man he dare not deme. *Iudicium 4. modis corruptitur.*
 10. Throw covetice, quhen the Iudge is corrupted be gifts. *1. Timore. 2. Cupiditate. 3. Obris.*
 11. Throw hated, quhen the Judge hurtes the innocent. *4. Amore. Vt patet ex iure Canonico. c. quatuor.*
 12. Throw loue, quhen the Judge noyes the innocent, and against righteoufnetfe defends his friends fra the law, and swa the Judge fall see that na wrang nor oppression fall be done to neither of the parties before him in judgement against the course of common law. *11. 4. 3.*

13. Likewise the Judge fall be readie to cause receaue borghs lawfullie before him offered of any partie, feiling him aggrieved be any judgement given against him in that Court, and againe-said be him in the maner, as law will.

14. And not againe standing, he aught to cause be delivered the Rolment of any Procelle, or mute before him to the partie it askand, vpon the costage and expenses of him that it askes reasonable.

OF DIVERS KINDES OF BORGHES.

CHAP. 38.

Quon. Att. c. 17.

ALswa it is to witt, gif any man borrowes another man to answer to the soyte of any partie, either he borrowes him, as haill forthcummand borgh, and then he is halden, bot allanerlie to appeare his person, to the soyte of the follower, and quhen he hes entred him in plaine Court to judgement; then aught he that him borrowed there to appeare, and be discharged as law will.

2. And gif he be borgh for any man in this maner, videlicet, that he sal stand to the right of his partie, on him plenze and; then aught the borgh be sickernes, & securitie to allyth baith the partie of his recover, and the Court of that vnlaw.

THE BORGH MAY NOT BE COMPEL-
led to pay sa lang as the debter is responsall.

CHAP. 39.

Quon. Att. c. 17.

IT is to be vnderstand, that although any man be borgh for any debtour, he aught not to be constreinzie to make any payment of his proper gudes, for the debtour, for quhom he is borgh sa lang as he may shaw the principall debter sufficient & streinze-able,

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able, in gudes vnder the officiars, before the quhilks the gudes by judgement was recovered lawfullie, as law will.

THE FORME OF ESSONZIE.

CHAP. 40.

IT is to witt, quhere any partie findes borgh, to follow an other in forme of law, of quhat mure sa ever it be: And the partie defendand drawes to delayes of Court, be defaults and elsonizies, it is to be vnderstand, quhither the partie defendand be name is elsonzied, or his borgh be name not making mention of him to the soyte of his follower.

2. For quhatsoever will elsonzie any partie, against the soyte of any man, in quhatsoever pleade it be formallie, after the order of the law; it behoues the elsonzier to name his awin name, and the name of him that is elsonzied, and the names of them against quhom hee is elsonzied, and the kynde of the mure in the quhilk he is elsonzied, in this maner and forme followand; *I Robert elsonzies Iohn of K. against the soyt of Richard of B. in mure of trespassse, or of debt, quhither sa it be.* And the elsonzier sall be well advised, that he specifie and name all the names righteously and lawfullie, as they were called, at Kirk dore, in the time of their Baptisme, not calling *Joke, John, nor William, Vill*: And gif he does otherwise, the partie that is elsonzied, will be tinfalled, and the elsonzier amerciate for his vnlawfull elsonzie, gif it be decreited before the Baillies, as made against the forme of Court.

OF ANE MANSLAYER AND HIS LANDS.

CHAP. 41.

Quon. Att. c. 18.

ITem, gif any man slayes ane other man, and afterward hes outdrawen himselfe, and not law sufferand; the Judge sall gar seise and hald in his hand al his lands for twelf moneths, and ane day. Within the quhilk time, the King may remitt to him the mans slaughter, and zield vp againe to him all his lands.

The liferent escheit, pertaines to the immediate overlord. 2. And gif after twelf moneths, and ane day, he withdrawes him, the chief Lord of him, sall that land out of the Kings hands recover, and it sall still joyse and possesse, as long as that manslayer liues, although afterward the King haue granted that manslayer his peace, for his trespassse.

3. Bo

3. Bot after the death of him, his heires fall recover his lands, out of the hands of the chief overlord be comuon law

THE LIFRENT ESCHEIT OF ANE MAN-

slayer after zeare and day, may be disponed be the King, gif his overlord be reason of warde ts in the kings hands.

CHAP. 42.

GIf ane manslayer halds his lands of ane overlord, quhilk o- *Quon. Att. c. 18.*
verlord is in waird in the Kings hands, and his lands, be the
space of twelfe moneths and ane day: And the King be^a enche- *1. Bereason, or*
son, that the overlord is within his waird, afterward giues that *because.*
land to any man as escheit, he that hes it giuen to him fall halde
it as escheit, alls lang as the manslayer is liuand, although after-
ward the overlord fall happen to come to perfite age, and reco-
ver his lands out of the Kings hand.

2. For that escheit is bot moueable, and may be given be the King that had power in the time.

3. Bot it is to witt, that gif the lands of the felon had beene in the Kings hand vngiven, that time that the overlord recovered his lands, he sould haue also recovered that escheit with his other lands.

THE PAINE OF TREASON AGANST

the King or overlord. CHAP. 43.

Quon. Att. c. 19.

GIf any man be convict of traitorie done to his overlord, he fall be dispuilzied, and disherished for ever mair, of all the land that his father held of that Lord; bot after his death, his sonne fall recover all other lands, and the tenements quhiks he held of other Lord.

2. And gif treason be done to the King be any man, his heires fall be disherished for outten end of all the lands in the Kinrick, that his father held.

3. And gif any man be condemned for manslaughter, or for thift, their heires after their decease fall recover their heretage, & peaceable enioice it, for outten gainsaying of any man.

THE WIFE MAY REVOKE THE ALI-

enation made be her husband. CHAP. 44.

Quon. Att. c. 20.

ANd it is to witt, that na husband of any woman may annaly the heretage of his wife, & gif any man maks sic gift thereof, after

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after hit decease, his wife, gif she pleases, or her heires, gif she be dead, may againe call it, as she that in time of the alienation, was vnder his wand and his will, and might not it gainstand; and that he Lord was of all that she had for his lifetime.

2. And law sayes, in that case, that wife being vnder the paustie of her husband, voice in law hes na right.

3. Quherfore in all his lifetime, she neither might nor durst gainstand his will, quhither he wald haue demaned her lawfullie or not.

THE LORD MAY PROVE NATHING AGAINST HIS MAN, gif he will acquite against his Lord.

CHAP. 45.

Quon. Att. c. 42. **I** Tem, na Lord may proue against his man be witnes in his court, nor skaith him for any transgression vpon him set, aganst his Lord, bot gif it be ane open trespassse that misters na prufe.

2. Nor zit to proue any convention vpon him with witnes, sa lang as his foresaid man will him thereof acquite, anent his Lord, of the thing that is laid to his charge, and he aught to make his purgation against his lord with himselfe, and twelue beand vn suspect.

*ANE CONDEMNED THEIF SOULD
not be redemed nor pardoned.*

CHAP. 46.

Quon. Att. c. 42. **A** Nd it is to witt, that quhere any partie is defamed of common thift, before the Justice; gif he be convict, he aught not to be borrowed nor sauld, nor yet to be delivered.

2. And gif sic ane common theif, come in the Court of the Schiref, the Schiref fall accuse him of common thift, though he haue na partie followand.

3. And gif he denyes thift, and all that it pertaines, and puts him to the knowlege of ane Assise, as he were indited before the Justice; gif he be made quite, quite pass he; and gif he be condemned be that Assise, justice aught to be done on him, as law will.

ANENT

ANENT COURTS OF CRIME AND
heretage. CHAP. 47.

Life, Lim, Land, Tenement, or Escheit, may not be judged
in latter Courts then Courts of Baron; bot gif these Courts
haue the samine fredome, that the Baron hes: And sic libertie
as they haue that are Barons. As Religious men, Court haue and
the like right as Barons hes.

Quon. Att. c. 43.

*1. Religious men
haue and court f
the like power &
right, as Barons
hes.*

SERVICE DONE BE THE TENNENT
prejudges not his Lord. CHAP. 48.

NA Mail-man, or Fermour, may thirle his Lord of his frie
tenement, althought he within his time haue done thirle
service, or other service, not aught be him; the quhilk service the
Lord of the tenement is not halden to do thereafter, nor zit is he
prejudged in his right be the deed of his Fermour, done be him
in the time of his mailling.

Quon. Att. c. 44.

2. For the law sayes, that the deedes of the Fermour may not
thirle, nor make prejudice to his Lords right.

THE TENNENT IS NOT OBLIST TO HIS
Lord, sic service as he did be compulsion to others.

CHAP. 49.

Quon. Att. c. 45.

GIf any frie-halder, quhais tenement is frie from all service,
be his infestment, falles in the thrid of any Ladie; be enfor-
cing does to that ilk Ladie any service cumand to her Court, or
for her lifdayes does any thirlage: after her decease the thrid part
turnes againe to the Lord thereof; the foresaid Lord may not
aske of his tennent any sic service, althought his tennent did the
samine to the said Ladie.

2. Because he is halden to doe onely the service contened in
his infestment. And at na time that Lord was never thereof law-
fullie infest, nor zit in lawfull possession thereof in any time.

THE LORD MAY NOT RECOGNISE
the waist lands for the annuels bygane.

CHAP. 50.

Quon. Att. c. 46.

GIf any tenement of land of any frie tennent, being halden
of any higher Lord, for any service, in any summe of annuel
rent,

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rent, or possession; and that ilke tennent be farre away out of the countrey, be the space of many zeares, and that ilke tenement be void and waitt all that time, and not streinzeable; that Lord may not knaw, nor recognosce that land to him be law, nor into his hand take for the arrierage running on it vnpayed, bot he sall bide til he may get or finde any thing on it, the quhilk he may distrenzie, for the arrierage aught of that ilk tenement.

THE LORD MAY RECOGNISE THE tenement for service. CHAP. 51.

Quon. Att. c. 47. **I** Tem, gif any tenement of any man, aught to any Lord service; the Lord may distrenzie the tenement till come be summons to his Court, be the space of fourtie dayes, and to doe that ilke service, or then to shaw as law will, that he aught to doe nane.

2. And gif he will not appeir, the Lord may be judgement, & dome of that Court, knaw and recognise him to that ilke land, and the rent of it lose, and haue it for ane zeare.

OF FISHING AND HUNTING.

CHAP. 52.

IN the time of King *Alexander*, na maner of waters were defended from fishing of Salmond, bot waters runnand to the Sea. Nor zit was not defended nor forbidden to any man to hunt, nor to chase the Hare, and the Foxe, and other wilde beasis without Forrests, and VVarandes, quhere so ever they were founden.

ANENT COMMING TO HEID COURTS.

CHAP. 53.

Quon. Att. c. 33.

I Tem, ilk soyster aught to come to thrie heid Courts in the zeare, withoutten summons or warning: Bot the parties mutand, aught to be warned and summoned, als well to these Courts as others; bot gif they in plane Court consent.

2. Allwa it is lawfull to the parties mutand, and to other parties, to ^a cast as law will, ellonzies in these Courts, as in others, als oft as order of law will.

^a To vse and propone.

3. And gif he aught not to his Lord be zeare but thrie head Courts, and chief soytes, he may not vse any ellonzies at any
of

of the thrie head Courts. Be this reason, that the service is limite, and prescribed to him, he may not breake; and gif he might anis effonzie, he might cast thrie effonzies, and swa sould make na service to his Lord be zeare, quhilk were vtterlie against the law, and contrare to his infestment of his halding.

OF THE ESSONZIES OF SOTTERS.

CHAP. 54.

A swa, ilke soyter that aught common soyt in Court, may be effonzied thrie, for soyt of Court altogether, and at the thrid day may come and warand his effonzies; and gif he not does at the thrid day, he may be amerciati. *Quon. Att. c. 33.*

2. And the Baillies is not halden to admitt any effonzie without ane borgh. And gif the effonziand hes na borgh, he may be amerciati for his effonzie made, and not affirmed with ane borgh. *All parties, or heirs mak an effonzie suld find borgh.*

3. And gif sic effonzie without borgh, be made against the soyte of the partie mutand in Court; he that swa is effonzied may be tinselled and skaithed.

4. Because that nane effonzie made within Courts is lawfull, bot gif it be affirmed with ane borgh.

OF THE CITATION OF SOTTERS

and parties.

CHAP. 55.

NA soyter of Court aught to appeare to defend the soyte of his Lords Court, the quhilk he there aught withoutt in lawfull summonds to him lawfullie made. *Quon. Att. c. 33.*

2. Na zit the parties mutand in Court aught to appear withoutt in lawfull summonds to them made, although they were amerciati in the Court be the Baillie, bot gif them likes of their awin will to consent thereto.

ANE BORGH SOULD NOT BE FOVND

for ilke exception, except it be frivoll.

CHAP. 56.

WHere any parties mutes together (as before Iustice, Schireff Barron, or any other Iudge quhatsoever) ather partie of them mutand, may vpon exceptions lawfull, and reasonable, wardes, domes aske without finding of borgh to the Judge. *Quon. Att. c. 34.*

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2. But gif it swa be, that the parties wald set them to tary the court, with exceptions frivolous; and then the ludge aught not to admit sic exceptions, without borghs.

3. And gif the Baillie wald not gar the Court serue the parties of lawfull wardes taking, without borgh foundin (*exceptis be in frivolous exceptions*) then sould many pure men perish, for default of right, because they durst not finde borghs, vpon exceptions lawfullie taken, for dread of tinsell, and paying of amerciamment of Court.

ILK MAN SOULD BE SUMMONED

anent his heretage be the Kings Brieve.

CHAP. 57.

Lib. 3. c. 25.

Quon. Att. c. 25.

ALsua, it is to witt, that na frie halder aught to answeire in his Lords Court vpon any thing, touching sic ~~and~~ heretage, without the Kings Breive pleadable.

OF SHAVVING OF HALDING.

CHAP. 58.

Quon. Att. c. 25.

THe Tennent halding his tenement of any Lord, is not halden at his summons to him made, his charter to shaw to his Lord, touching his halding, but anis during the time of his life.

2. Fra he haue it sene, and it in plane Court red, and he aught giue it right there againe without delay.

4. And the Lord aught not of it to take any copy, na to translate it of law.

OF THEM QVHA SOULD SPEIK

in Court.

CHAP. 59.

*Quon. Att. c. 35.
c. 66.*

ITem, after the Court be affirmed and defended, na man aught to speik, nor intromet betwix the parties, bot they ilke parties, and their forespeakers, and their counsell.

2. Bot in the meane time of the declaring of the judgement, and the wardes; it is lawfull to ilke man, that is soyster in the court to speik his intent, and to giue his reason of warde and dome.

c. 37.

3. And the ludge aught to gar command ane soyster, that is ane able person, beand of gude fame, to giue that ilke dome, well informed be them all, as ane tongue of ane mouth (*as is before said*) fra the parties be incalled in Court to heare it.

OF

OF ESCHEITS, AND FIRST OF
all things hauand na Lord. CHAP. 60.

Item, here beginnes the falling of escheits, the quhilks happins *Quon. Att. c. 48.*
to fall of sundrie maters, sometime in moueable gudes, and
sometime in vnmoueable, as in lands and tencements.

2. And it is to wit, that some moveable escheits are of law and *Escheit of move-*
right, as quhere any thing is in the kinrick, the quhilk is vnder the *able gudes.*
Lordship of na man. And sic like, all treasure that is hid, of the
quhilk the Lord is not knawin, and all other things beand in the
kinrick, in the quhilks na man hes clame, it is the kings of law.

ESCHEIT OF BEASTS BE PATSTV-
rage, or within forrests. CHAP. 61.

Item, ~~there~~ *Escheit of move-* escheits sometimes be pasturing of beastes in *Quon. Att. c. 48.*
the heretage of any Lord custumably, after the custome of that
Lordship, be multiplication, or manynes of Hynes, or of Hirde
them keipand, and haldand, quhilk beastes may be made escheit.

2. Als wa, gif oxen be attached within the Kings forrest, with
ane wayne, or horse, with any thing hauand out of the frie forrest
of the Kings, or of any lord quhere ever it be, and they haue bene
custumable misdoers in that forrest, they may be made escheit of
law, be dome of that ilke Court.

3. And though all the parties of these cattell haue made
defaultes and cissonzies, before the enterie of it in Court, fra it be
ains entered in Court, and made the Lords escheit be dome, there
aught na other amerciament for that cattell to be tane nor recea-
ved of law.

4. Nor he that is attached in sic maner, may not, nor fall not
of law be heard askand his Lords Court, bot there fall bide dome.

OF ANE HORS THAT DROVNS
ane man. CHAP. 62.

Item, gif any man rydes vpon ane headstrong horse, & vnwar- *Quon. Att. c. 48.*
ning runnes in ane water, or out over ane rocke, swa that the
man is alutterlie drowned, or flane, that horse aught to be escheit.

2. Eor gif it be ane tayme horse, and any man rydand vpon
him, constrenzies him with spurres to take the water, and that
man drowne in that maner, the horse aught not to be escheit of
law.

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law. For it was not in default of the horse, but of him that constrained him with sharpnes of the spurres, and wilfullie raid in the water on his awin will.

Quon. Att. c. 48.

OF BEASTS SLAYING ANE MAN.

CHAP. 63.

I*Tem*, all beastes that slayes any man, of the quhilk slaughter they haue gilt, they aught to be escheit perpetuallie to the King withoutten dome.

OF ANE MILNE AND ANE MAN slane with the quheill thereof.

CHAP. 64.

Quon. Att. c. 48.

IT is to witt, that this question is asked in the law, gif ane Lord hes ane Milne, and any man fall in the damne, and be borne down with the water, quhill he come to the quheill, and there be slaine to death with the quheill; quhither aught the milne to be escheit or not? The law sayes thereto nay, and be this reason; For it is ane dead thing, and ane dead thing may do na felony, nor be made escheit throw their gilt. Swa the milne in this case is not culpable, and in the law it is lawfull to the Lord of the land to haue ane mylne on his awin water quhere best likes him.

OF ANE VVAYF BEAST

CHAP. 65.

Quon. Att. c. 48.

GIf any beast, horse, ox, or kow, or other cattell be founden within the Lordship, and the soillzie of any man; then aught the Serjand, or the finder to be borth to the Lord of the place, and he to gar cry it fundrie times in the Kirk, and the market, be the finder, or serjand, or else the finder of it may be challenged of it be way of action pertainning to thift.

2. Nor it may not of law be made escheit to that Lord, before the passing of twelue moneths, and ane day, within the quhilk time he that aught it, may come and hamehalde it lawfullie.

3. And gif he not does it in that time, it aught to be judged the Lords waif, and his escheit of law in his Court.

LANDS

LANDS OF MANSLAYERS, THIEVES,
and traitours. CHAP. 66.

Item, it falles of lands and rents, that some are escheits for ane *Quon. Att. c. 48.*
time, and some for ever mair. For ane time, as the lands of the
Kings felon, that thift does, or man slayes, quhilks lands are bot
escheit for ane time, that is, quhill the felon is on life.

2. For after their decease, their heires fall recover their lands
of law.

3. And it is to witt, that the lands of traitours, are escheit for
evermair, fra them and all their heires for outten doubt.

OF THE QUALITIES OF ANE
soyter. CHAP. 67.

NA Judge of Court aught of law, nor of reason to accept a- *Quon. Att. c. 36.*
ny man in Court, as soyter, bot gif he can make sufficient
and lawful record of procelle, and of domes, and judgement, and
lawfullie informe giue dome of mutes, and plaides there in court
followed, and defended before him lawfullie, quhere he is soiter.

2. And he aught to be present in Court, be his Lords letter,
and seale, or be his Lords awin hand.

ANY MAN STREINZEABIL MAY BE
borgh for his awin unlaw in Court. CHAP. 68.

IT is to witt, that ilke frie man may be borgh for himselfe with- *Quon. Att. c. 37.*
in Court of amerciaments, and of others small dangers als wel
within Court, as out with, ay and quhill he hes ought within the
jurisdiction of the Baillie, that he may be distrenzied in time of
mister.

ANE NT THE IMPRISONING OF
ane frieman. CHAP. 69.

Quon. Att. c. 39.

IT is to remember, and witt, that na frie man aught to be priso-
ned be the law of *Scotland*, for any querrell, quhill he may find
sufficient borghs to abide law, till any man on him pleinze and.

2. Bot gif it be in certaine case, in the quhilks na man aught
to be borrowed: That is to say, gif he be taken reid hand in thift,
in the quhilk case he aught to be occupied be the law, and con-
demned to the dead for his thift, bot he aught to be prisoned first
and

The forme and maner
and then borrowed out of prison.

*ANE MALEFACTOR HALDEN ATT-
tour ane night may be borrowed be his Lord.*

CHAP. 70.

Quon. Att. c. 39.

GIf any malefactors be taken and halden attour the space of ane night, they may be borrowed be their Lords, to ane lawfull day and steid, there till answer to their partie.

2. Except in sic case done to the King, or then to great Lords of the kinrick.

3. For the quhilk they aught to be first prisoned for their hideous and grievous trespalle: Because of the reverence of the King, or of the great overlord, to quhom it was done.

*FLK BARON MAY CLENGE HIS LANDS
of trespassors thrise in the zeare.* CHAP. 71.

Quon. Att. c. 42.

ITem, it is to witt, that ilke Baron may thrise in the zeare clenge and purge his lands of misdoers, and malefactors, and of others that are of evill fame, be ane inqueist of leill men and lawfull.

2. And it is to witt, that na man aught to be condemned, be that ilk inqueist, but they that gaue thereto their consent.

*OF INJURY DONE IN COURT TO
the Judge.* CHAP. 72.

Quon. Att. c. 40.

Leg. Burg. c. 103.

ITem, of them quha mislayes the Baillics, or the Lords Baillic in Court of his office doing, it behoves him right there to cry him mercy, and therefore to make him amends; and after the amends made, he aught to sweare on the haly Euangell, neither his skaith nor shame thereafter to heare nor see, bot gif he let it at his might, or then him thereof warne, be time that he may eschew.

*OF HIM QUHA FAILZIES TO AC-
quite himselfe of thift.* CHAP. 73.

IT is to witt, gif any man be challenged of thift, and he haue denyed it, and vpon the denyance, he is adjudged to ane certaine day, and steid, him thereof to purge and acquite; and he that day given till him, failzies to make his acquitance, it aught to be done of him, as with ane tainted theif, that is, thifteouslie convict before the Justice.

IN

IN CRIMINALL CAUSES BAITH THE
persecuter and the defender sould finde ane borgh.

CHAP. 74.

Here begins the Procelsse of following of sicker borgh be- *Of criminal causes.*
 fore the Judge in Court. It is to witt, quhasoever hes a-
 ction to any man of thift, or of slaughter, and he will make soyte
 to him of that ilk action; it behoues him to knit him in ane hand
 of ane officiar, be ane sicker borgh, for to make soytes against him
 in forme of law.

2. And then aught the officiar for to attach him, in the forme
 of law, of quhom he is plenteous, and sall take sufficient borgh of
 him that is attached, to answeere to the challenge of his follower,
 at lawfull day and steid, vpon sic ane pointe, to him named speci-
 ally be that ilk officiar him attachand.

IN CRIMINAL CAUSES THE PARTIE
sould be summoned vpon fourtie dayes.

CHAP. 75.

And it is to witt, that the partie defendand of law in sic mute,
 sall haue to answeere fourtie dayes.

2. Because that all mute be sicker borgh followed, twitches
 life and limme. And therefore, it misters mair in sic ane mute, ane
 gude answeere and advisment, then in other mutes of wrang and
 vnlaw, quhilk touches allanerlie, but winning or tinsell of mo-
 vables, that dangers not the life or limme in na parte.

OF DELAYES GRANTED TO THE
defender.

CHAP. 76.

Item, it is to witt, that the partie defendand may make their de-
 layes in sic mute, swa that ilke delay may containe the space of
 fourtie dayes at the least.

2. And gif the partie be called to Court be shorter space, he
 aught thereto appeare, and say, that him falles on law to haue the
 space of fourtie dayes.

3. And after his appeirance, gif he will, he take to the delaies
 of law, that he aught to haue of law, in that mute withoutten
 doubt.

THE

The forme and maner

THE DEFENDER COMPEIR AND THE *thrid day, may vse all his defensis. CHAP. 77.*

THe partie defendand on the thrid day appeirand, he may warand his defaults, and aske sight of the Procelle on him made from day to day; fra the attachments made to that ilke day of his enterie into the Court of his appeirance; and against that Proces to haue his exceptions lawful, allwel as in any other mute.

2. Be reason that na mute, nor na cause to any man is so tender, as it that twitches him in life and limme before any Judge, as caule of thift, reif, or manslaughter.

3. And gif he findes any advantage, or lawfull exception against the Proces vnlawfullie led, or against the attachment vnlawfullie made, he may aske dome thereof, and receid quite from it, as at that time, till he be new attached againe thereto lawfully.

THE APPELL IN CRIMINAL CAU- *ses followed be sicker borgh. CHAP. 78.*

VPon the thrid day, at the appeirance of the partie defendand, then sould the party follow and make his appeal in this maner, sayand: *J. VV.* sayes to thee *John*, that thou thy selfe slew throw felonie *L. of D.* the quhilk to me was father brother, sic anc zeare, steid, and day, and fellony against the law: Or then of that ilke fellow, slaughter, or dead to him done, thou thy selfe full airt had, and parte in harming and skaithing of me, and o-ther friendes here followand of ane thousand pounds, and mair, at the will of the taxer. And gif thou this denyes, I aske it to be knawin be ane leill and gude allife, all persons suspected, from it lawfullie removed.

THE ANSWERE OF THE DEFENDER.

CHAP. 79.

THe party defendand may answeir and say, Sir Judge, I deny squairly the fellow dead of sic ane man, or airt & part haueand, in the fellow slaughter of sic ane man, slane in sic ane steid, day, and zear; and that taxt harmes on me taxed, of ane thousand pounds, and they challenges word be word, in forme and maner to me made, as I, that am thereof quite, and out saikles. And that I oblish me to defend be my hand, as law will of Scotland.

2. And

2. And gif he may finde sufficient borgh to answer to the taxt summe of harmes, he aught to be admitted to the battell.

3. And gif he may not finde borgh answer and to the summe of taxt harmes; the appeill aught to be knowledged be ane leill & sufficient assise, quither the partie defendand will or not.

*THE CAUSE FOR THE QVHILK
the harmes are heighlietaxt.*

CHAP. 80.

I*tem*, it is to witt, that it is ane of the causes that the harmes are taxt so heighlie in the mure of thift, or fellonie; that the defender sould not finde sufficient borgh, to answer for the summe of the taxt harmes; and therfore the defender sould haue the knowledge of ane assise, and to be excluded from the defence of battell:

*THE JUDGE MAY PERSEVV AT THE
Kings instance, albeit the defender be quite at the instance
of the partie.*

CHAP. 81.

A*ND* it is to witt, that the defender may na wayes escape, bot *Lib. 4. c. 25.*
gif it sa be, that the partie followand can not make to him lawfull soyte, because of the quhilk the partie defendand, may take against him, or his challenge any lawfull exception, and throw dome of Court receid and quite pas.

2. And nevertheles, the Judge may of law, gar know vpon the dead be ane assise, for the Kings parte, gif him likes, although he be sa passed away, fra the challenge of his partie, as in the default of formall soyt, not made in dew maner and forme.

THE



IN MY DEFENCE

GOD ME DEFEND.



THE LAVVES AND CONSTITVTIONS

OF BVRGHS, MADE BE KING DA-
VID THE FIRST, AT THE NEW CA-
stell, vpon the Water of Tyne.

OF THE KINGS RENT VVITHIN
Burgh. CHAP. I.

*Read the 136.
chap of this trea-
tise, and 1ac. 3.
parl. 7. c. 53. and
thereby ze sall
vnderstand these
Lawes to be au-
thentick.*



IN THE FIRST, ILKE
Burges sould pay zearlie to the King,
in name of Burgage, quhilk he de-
fends and halds of him, for ilke rude
of land, fiue pennies.

OF ANE NEVV MADE
Burges. CHAP. 2.

QVha is made of new the Kings
Burges, first he sall sweare to be
faithfull and trew to the King, his Baillies, and communitie of
of that Burgh, in the quhilk he is made Burges.

OF POYNDS TAKIN FROM VP-
lands men. CHAP. 3.

infr. h. t. c. 105.

ANe Burges may poynd ane vplands man, or the Burges of
ane other Burgh, within, or without the time of market;
within

within or without the house.

2. Except commerce, or ane fair be halden within burgh, or the Vplands man be in the Kings hoist, or in the zemefel (*and keiping*) of the Kings Castell.

OF POYNDS TAKIN BE ANE BVR-
ges fra ane other. CHAP. 4.

ANE Burges may not poind ane other Burges dwelland with in the samine burgh, without licence of his Provest.

ANE STRANGER SALL ANSVVER
to ane Burges within burgh. CHAP. 5.

GIff ane Burges hes lent his gudes or geir within burgh, to ane man dwelland without burgh, gif the debtour contellis the debt, he sould pay it.

2. Bot gif he denyes it, he fall answeere, and doe right within burgh.

OF PLETES PERTAINING TO THE
Jurisdiction of burghs. CHAP. 6.

PLEyes quhilks aryse within burgh, fall be there within burgh halden and decided.

2. And all querrels and complaints, quhilks beginne within burgh, sould be determed and decided within burgh.

3. Except the complaints and points, quhilk perteine to the Kings Crowne, quhilks sould be inrolled and keiped, vntill the cumming of the Justitiar, and then in the burrow Court; sould be pleaded and determed before the Justitiar. *Leg. Mal. 2. c. 11*

ANE BVRGES SOULD NOT PLEY
bot within his awin burgh. CHAP. 7.

GIff ane Burges is persewed for any complaint, he fall not be compelled to pley, without his awin burgh; bot in default of Court, not halden (*within his awin burgh*)

2. Nor sould not answeere (*within his awin burgh*) without day and terme; except he will answeere fulishlie.

3. Except the pleyes, quhilks pertienes to the Kings crowne; and he being accused of these and of others, hee sould bee

Burrow Lawes.

Quon. Att. c. 67. judged be the peires conforme to his lawes and constitutions of
Stat. Alex. c. 2. Burghes.

OF ANE PLEY BETVVX ANE BUR- ges and ane merchand. CHAP. 8.

^a *Ane stranger
merchand.*

GIf ane pley arise betwix ane Burges and ane^a merchand; it
sould be ended and decyded before the thrid flowing and
ebbing of the sea.

OF LANDS POSSESSED PECEA- blie be the space of ane zeare and day. CHAP. 9.

QVha posselles peceablie his lands, ane zeare and ane day,
and without challenge; quhilk he boght trewlie, be the te-
stimonie of twelue neighbours, gif any man challenges it after
zeare and day; and moves nor makes na challenge within the said
terme, fall never be heard: gif he was within the Realme, and of
perfite age, and not in prison.

2. Bot gif he be not of perfite age, or forth of the Realme,
or not in prison; quhen he is of perfite age, or returns hayme, or
is relived forth of prison, he fall not tine his right.

OF MERCHANDICE BROCHT IN BE ane shippe. CHAP. 10.

*Iac. 6. parl. 4. c. 60
parl. 6. c. 86.*

ALL merchandices brocht in be the sea, in ane ship, fall be los-
sed and brocht to the land; except Salt and Hering, quhilk
may be sauld in the ship.

THE FATHER MAY REVOCK LANDS given to his sonne, be reason of his ingratitude. CHAP. 11.

THe Father hauand lands perteinnyng to him, as heretage, or
as conquest, for the great loue and favour he hes toward his
sonne and heire, gives them all to him in his liege powstie: and
thereafter the father falles into ane inexcusabill necessitie, and
declares his povertie to his sonne, and the sonne will not suc-
cour nor helpe his father; the father may sell, or wadsett the sa-
mine landes quhither they be heritage, or conquest, to quhom
he please.

2. And before the alienation, selling, or wadsetting, the
povertie

povertie sould be proven betwelve leill and faithfull neighbors; that is, be foure dwelland on the ane parte, or side of the house pertaineing to the analier, or seller: and be foure vpon the other side; and be foure dwelland foranent the house; otherwise the alienation is of nane avail, nor strength.

OF LANDS GIVEN BE THE FATHER
to his bairns. CHAP. 12.

GIf any man hes fundrie lands, and fundrie bairnes; and gives to ilke ane of them ane peece or portion of land, and all the bairnes are within age, and forth of the fathers custodie, and power. And after deceis of the father, his heire alledges, that donation to be nulle, because his father intrometted with, and tuke vp all the dayes of his lifetime, the frutes and profites of the lands. In this case, the heire sould nocht be heard: Because the father gaue and dispoined the lands in his liege powstie.

OF ANE HUSBAND-MAN BURGES.

CHAP. 13.

GIf ane husband man dwelland without burgh, hes ane burgage within burgh, he fall not be esteemed ane Burges; bot in that burgh, in the quhilk he hes the burgage.

2. And gif the husband man being burges, challenges ane burges dwelland within burgh, he fall defend himselfe be the law of the burgh.

3. And gif the Burges dwelland day and night (*continuallie*) within burgh, appelles this husband man, anent any thing, quhere battell may arise: the husband man may defend him against the burges be singular battell.

OF BATTELL BETVVIX ANE VP-
lands man and ane burges. CHAP. 14.

GIf ane vplands man, appelles ane Burges to battell, anent any thing, he sould not be suffered to fight with the Burges; bot the burges fall defend himselfe be the law of the burgh.

2. Except it be treason, or question, anent his libertie, or estate, quhereanent he sould defend himselfe be battell.

X 2

3. Nor

Burrow Lawes.

3. Nor ane Burges may not fight against ane Vplands man, bot in the cases forelaid; except he passe forth of his borgh.

THE KINGS BURGES MAY COMPEL *other Burgesis to fight.* CHAP. 15.

THe Kings Burges may haue battell of ane Burges of ane Earle, or of ane Abbot, or of ane Priour, or of ane Barons Burges. And not in the contrare.

THE LIBERTIE OF ANE BURGES SON. CHAP. 16.

ANc Burges sonne, sa lang as he sittes at his fathers Table, he fall haue the like libertie, as his father hes, to buy, and sell.

2. Bot quhen he passis therefra, he fall not bruke nor enjoy that libertie; except he be the sonne of ane Burges.

ANE BOND MAN DWELLAND WITH- *in burgh, ane zeare and ane day is frie.* CHAP. 17.

Lib. 2. c. 12. 17.

GIf ane bond man of ane Earle, or Baron, or of any other man, comes to ane burgh, and buyes to himselfe, ane burgage, and dwelles in that burgage ane zeare, and ane day, without any challenge of his master, or his baillie; he fall be ever frie, and fall enjoy the libertie of the burgh, as ane burges. Except he be the Kings bond man.

ANE STRANGER MERCHAND SOULD *buy from Burgesis.*

CHAP. 18.

Jac. 4. parl. 4. c. 41
Jac. 6. parl. 12.
c. 152. **N**A stranger merchand nor aliene may buy wool, hydes, nor other merchandice, within, or without borgh, bot fra ane burges.

OF BLOWD-WVIT.

CHAP. 19.

Within bourgh, bloudwit, stingisdynt, marchett, herrezeld, nor other like things (*as none entres, or terce of lands*) sculd not be heard

BVR-

BURGESSIS ONLY MAY HAVE ANE

Oven. CHAP. 20.

ILke ane of the Kings Burgessis may haue his awin Oven (*for baiking of bread*) within his awin land; and na other man bot the Kings Burges.

THE VNLAUV OF BREAD AND AILL.

CHAP. 21.

GIf ane Baxster, or ane Browster is vnlawed for bread, or aill, na man sould meddle, or intromitt therewith, bot onely the Provest of the towne.

2. And gif they trespassse twise, they fall be twise punished for their trespassse.

3. And gif they trespassse thrise, justice fall be done vpon *Iac. 2. parl. 14. c. 77.* them: that is, the Baxster fall be put vpon the Pillorie (*or half fang*) and the Browster vpon the Cockstule.

4. And gif the Provest neglectes to do justice, his bodie, and his moveable gudes fall be in the Kings will.

OF BVTING OF VVOLL AND CLAITH.

CHAP. 22.

NA man bot ane Burges may buy woll to lit, nor make claith, *Iac. 2. parl. 14. c. 67.* nor cut claith, without or within bourgh. Bot it is to be otherwise said, gif ane man hes woll of his awin sheip.

IT IS LAVVFUL TO ANE BURGESS

to analie his awin Conques. CHAP. 23.

ILke Burges may gif or sell lands conquered be himselfe; and may frelie passe and gang quhere he will; except he be challenged at some mans instance.

AVLD AGE EXCVSES ANE BURGESS

frabattell. CHAP. 24.

ANe Burges being challenged be any man, fall not be compelled to fight, gif he be passed the age of battell, or fighting, and there be ettonzies and excuses himselfe in his answer.

2. Bot fall purge and acquite himselfe be the eath of twelfe men, sic as himselfe (*of his peirs.*)

X 3

3. Item,

Burrow Lawes.

3. *Item*, ane Burges sall purge himselfe against the King, or his Baillie, anent querrels or complaints moved betwix them within burgh, be his awin eath, and the eath of ten men swearand with him: Or with his awin eath, and the eath of ellevin men, gif the complaint tuitches the Kings person, or life and lim, or lands and heretage.

OF THE HEIRE, AND WIFE, OF ane Burges. CHAP. 25.

GIf ane Burges hes conquered lands within burgh, and hes bairnes to be his heire, and hes not assigned nor annalied them to any man before his deceis; after his deceis his sonne, or his doghter succedeis to all his heretage quhilk he had, the day quhen he was quick and dead.

2. Bot his married wife, induring her liftime, sa lang as she remanes widow, sall possesse the inwarde parte of the house, called, the flett.

3. And his heire sall haue the outward parte of the samine house, gif he please to dwell therein.

4. And this is trew, gif the wife hes not ane other Dowarie: For gif she hes ane other Dowarie, she sal possesse the samine, and the heire sall possesse the principall house.

OF THE HEIRE OF ANE BVRGES haueand mae wives. CHAP. 26.

GIf ane Burges haueand twa, or mae wives, conquesse sundrie lands, and hes procreat bairnes with ilke ane of his wives; all his lands perteining to him, the day quhen he was baith quick and dead, all well heretage as conquesse, purchassed in the time of his first wife, sall pertaine to the bairne gotten vpon the first wife.

2. And sic like the lands conquered in the time of the secund wife, sall pertaine to the bairne gotten vpon the secund wife, gif they be not assigned, nor sauld before the death of the father.

3. And the secund wife sall not remaine in the house perteining to the first heire, after the deceis of her husband; bot onely be the space of fourtie dayes.

OF

OF COMPLAINTS BETVVIX STRANGERS shipmen. CHAP. 27.

GIf Shippes of divers Countries, arrives within the Kings lands, and strife, and contention arise amangs the Mariners, within the Kings Porte; the Kings Judges fall doe right and Justice betwix them in quhatsumever querrell, or complaint, the ane makes of the other, swa that the complaint be moved within the Kings land.

2. Bot gif it happins, that the challenger, or he quha is challenged payes his cuttome, and does all quhilk he sould doe, within the Kings bounds; and his shippe is in the radde, they may pas away weill, and in peace, and ilk ane may seik justice of others, as they may best doe.

OF ANE BURGES ACCVSED OF thift. CHAP. 28.

GIf ane Burges is accused be ane Vplands-man, of thift found and apprehended in his house, and in his possession; and as ane frie Burges denyes the thift; and alledges that he hes na borgh or pledge, bot that he boght the thing challenged, lawfullie in the market of the burgh: The Burges fall purge and acquite himselfe be the eath of twelfe men, and fall tine the thing challenged.

2. And he fall sweare that he knawes not quhere the durre steikes or oppinnes pertainning to him, fra quhom he boght the said things; and fall pay ane vulaw of aught shillings, because he hes na warrant.

OF ANE BURGES MADE OF VVAIST land. CHAP. 29.

QWhen ane man is made ane new Burges, haueand na land inhabit, he may haue respit, or continuation for payment of his burrow mailles for ane zeare, quhilk is called hyrsert.

2. And after zeare and day he fall big and inhabit his land.

3. And gif thereafter it is waisted be fire, or be weirfair, and he hes ane other land inhabite, he may^a dimitt the land destroyed and not inhabite, vntill he be of power to big it againe.

^a He may continue the bigging.

2. Reservand alwaies to the King his rent, of the waist land, and

Burrow Lawes.

and of the inhabite land.

OF HIM *QUHA* DENTES ANE DEBT awand to ane Burges. CHAP. 30.

ANe Burges be his awin word may compell him to sweare, *Quha* denies his debt aught and to him, quhat ever he be, except he be ane Knight.

2. For gif ane Knight denyes his debt aught and to ane Burges, and the Burges haue na witnes agairst him; he may cause his steward, or his Baillie, with others his frie men, to sweare, and make faith thereanent.

OF ANE EATH BETVVIX ANE BVRGES and ane *vplands* man. CHAP. 31.

GIf any pley or querrell is betwix ane Burges and ane *Vp*lands man quhereanent ane eath sould be made; the burges sal acquite him agairst the *Vplands* man with sax Burgeissis. And he agairst the Burgeisse, with als many, sic as he is himselfe.

2. And gif the ane sould proue agairst the other, be witnes; it is necessare that he sal haue the ane halfe of Burges men, and the other halfe of *Vplands* men.

THE EATH OF *WITNES*.

CHAP. 32.

HE *quha* produces witnes for probation, in any cause or complaint, he sould not be compelled to sweare: Bot the witnes sould sweare that quhilk they testifie to be trew.

2. And they sal expresse sweare that they sal not depone, for feid of ane, nor favour of the other partie, bot onely for the veritie.

3. And then in presence of the witnes, ane recorder, or *cherse* sould be made of the clame and defensis, that before they sweare they may heare and knaw quhat they sal sweare.

THE HVSBAND MAY ANSVVERE FOR his wife. CHAP. 33.

THe husband may make ansvere for his wife, and stand in judgement for her, gif any thing is adjudged to perteine to her,

her, and defend for her wrang and vnlaw; gif she be challenged in any other burrow Court.

THE MANER OF POYNDING OF
ane vplands man. CHAP. 34.

ILk Burges may take ane poynd fra ane Vplands man, within burgh for his debt, within or without the house.

2. Bot gif he be sittand vpon horsback; he may not compell him to light downe fra his horse.

3. Or gif he hes bene poynded that samine day.

4. Mairouer, he sould not be poynded, gif he come to enter his poynde taken, or poynded of before. And gif any man alledges that he was poynded of before; he fall proue that, and then he fall haue his poynd frie and quite (*at that time*).

ANE BVRGES SOULD TAK NA
pledge bot ane other Burges. CHAP. 35.

ANe Burges may not be compelled to take anie man as pledg (*for his distres, or poynd*) bot ane other Burges; except it pleas him to doe otherwise.

FOR *Q*UWHAT CAUSES POYNDING
sould be stayed. CHAP. 36.

THere is foure impediments of poynding within bourgh. First gif his maister quha is poynded, is at the Kings hoist.

2. Gif he is in the Kings Castell, for keiping of it, for the space of fourtie dayes.

3. Gif he be at the Schiref Court.

4. Fourtlic, gif he be come to the bourgh, to buy meate (*and drinke*) to his maister.

THE REPLEDGIATION OF POYNDS.

CHAP. 37.

VPlands men may repledge their poynds thrie times, fra ane ouke to ane other ouke; and thereafter be thrie dayes, and na langer.

2. And gif they will not be reason of frowartnes, louse their poyndes, be finding of pledges therefore, and they die for hunger;

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ger; gif it be ane horse, or other beast, the burges fall cause it to be drawen forth of the house, and gar flea it, and fall keip the forehead and the taill, and thereafter fall take one other poind for his debt.

INBRINGERS OF FISCH AND *fewall sould not be poynded.* CHAP. 38.

NA man sould poynd ane fisher bringing fish to be fauld, bot for his awin debt onely.

2. Nor cariers of wood, turfes, or peits to be fauld; bot onely for the wood, peits, turfes, or for their awin debts.

OF RENT OF BROVVSTERS.

CHAP. 39.

ANe Browster quha brewes aill, all the zeare fall pay to the Provest foure pennies; and for ane halfe zeare, twa pennies: And he may brew thrie times, payand na dewtie. And for the fourt browest, he fall giue the dewtie of ane halfe zeare, and na mair (*quhither he be man or woman*)

OF THE RENT OF STALLANGERS *and merchands.* CHAP. 40.

ILk stranger (*cremar*) fall aggree with the Provest, the best way he may, or he fall gif ane halfe pennie ilk market day.

2. The stranger merchand, quha hes ane covered stand in the market day, or ane buith in the market day; for his custome fall giue ane halfe pennie.

3. And hee quha hes not ane covered stand, the day of the market fall giue ane quadrant (*farding*)

OF HIM QVHA BREAKS THE LAVV.

CHAP. 41.

BE the law, the Provest may not compell any man to sweare, anent the breaking of the law; except some man complaine vpon him.

2. And gif the defender denies, and ane complain vpon him: haueand na witnes; in that case, he fall purge him before the Provest,

Provest, conforme to the law of the burgh, be his awin eath, and the eath of five swearand with him.

OF VNLAUV VVITHIN BVRGH.

CHAP. 42.

A Ne vnlaw within burgh of them quha is convict within ane Burrow Court, sould not exceid aucht shillings. Bot it is few times fully taken vp.

OF HEAD-COVRTS VVITHIN BVRGH.

CHAP. 43.

There is thrie head-courts zearly within burgh, at the quhilk all Burgettes sould compeir. The first is after the feast of *Michalmes*. The secund is after the *Nativitie* of our Lord. The thrid is after *Pasch*.

2. Quhatsoever Burges is not present at thir Courts, being within the burgh, fall pay ane vnlaw of foure pennies; except he lawfullie excuse himselte, or is seik, or forth of the Countrie, or at ane fair.

3. Gif he be ane Burges dwelland without the burgh, and is absent fra the Court, he fall pay aucht shillings. And that for this cause, because ane Burges dwelland alandwart, is not compelled to come to any Court, bot to thir thrie zearlie head courts.

OF THE COVRTESIE OF SCOTLAND

within Burgh. CHAP. 44.

Gif any man receaue with ane woman, in name of frie tocher, ane burgage (*lands within burgh*) and with her begettes son, or dochter; and it happin his wife to deceis, quhither after her death, the sonne or the dochter die, or liue, the man or husband fall bruke and possesse that burgage, induring all the dayes of his life.

2. Bot he may not analie, nor wadsett that burgage.

3. And gif the samine nicht that the sonne or dochter is born, the mother and the sonne, or the mother and the dochter deceis; nevertheles, the husband fall possesse the frutes of that land, sa lang as he lives.

4. Pro-

Burrow Lawes.

4. Provyding that the husband haue the testimonie of twa leill men, or women neighbours, quha heard the bairne criand or greetand.

5. And swa, gif the husband hes receaved fundrie lands in tocher with his wife, and hes begotten na bairnes with her (*he sal not bruke them be the law of the courtesie*) all these lands (*after deceis of the wife*) fall returne to her narrest and lawfull heires.

ALIENATION OF CONQVES AND heretage within burgh.

CHAP. 45.

ONy man may giue in his leige powstie, to quhom he please, his lands quhilk he hes conquered. Bot gif he is oppressed with necessitie, swa that it is necessarie to him to sell his heretage: In that case, he sould offer the samine at thrie head Courts to his narrest heires; and gif they will buy fra him that land, they fall finde to him all necessaries; that is, meate and claith, sic meate as they vse to themselues; and claith of ane cullour, gray, or quhite, quhilk gif they will not doe, or hes not power nor substance to doe it, it fall be lawfull to him to sell that land to others, as he may best doe. And gif the heire is forth of this Realme, in the next Realme, hee fall be taried vpon be the space of fourtie daies; And gif he is in ane other Realme bezond that Realme, he fall be taried vpon be the space of twyse fourtie dayes, and swa forth of forain Realmes. And gif the heire malitiouslie absents himselfe attour these daies, it fall be lesome to him as ane pure and indigent man, to analie and dispone his land.

CHALLENGE OF LAND WITHIN BURGH

CHAP. 46.

GIf ane is challenged anent his land, or tenement, within burgh, he is not oblissed to ansvere to his partie aduersar, without the Kings breive, except he pleese to doe otherwise.

2. And he may vse delayes, and reasonable cissonzies, anis, twise, thrise, (*in the first, secund and thrid Court*)

3. And at the fourt day, (*fourt Court*) he sould compeir to warrand and defend his cissonzies, gif he any hes.

ANE

ANE BVRGES MAY NOT POTND
ane other Burges. CHAP. 47.

NA Burges may take ane poynd fra ane other Burges, bot he fall patle to his house with ane Officiar or Serjant, and fall assigne him ane day to compeir at the next Court: Gif he refuses to pay the debt; and gif he please to pay it, he fall pay it. And gif he compeires not at the day assigned to him, he fall be vn-lawed, and fall be summoned againe to compeir at the next Courts following. Sup. c. 4.

OF ANE BVRGES IN PILGRIMAGE.
CHAP. 48.

IT is to witt, gif ane is challenged anent his land, and is in pilgrimage, or in Cuntries bezond the sea, doing his awin affairs, before the challenger produce his letters (*his summons*) in the Court: he quha is challenged fall be taried vpon, vntill he retorne hayme.

2. Except he fraudfullie absent himselfe, and in that case, he fall be bidden vpon, conforme to the law, anent selling of lands, be reason of necessitie, that is, be the space of fourtie dayes.

ANENT ANE COMPLAINT BETVVIX
ane Burges and ane^a Castellane. CHAP. 49.

QWhen any man (*within the Kings Castell*) committes ane trespassse against ane Burges, the Burges fall craue and seik justice at the Castell, and without the Ports thereof.

2. Gif ane Burges commits ane trespassse against ane Castellane, the Castellane fall craue justice of him within the burgh.

OF SVVYNE, AND OTHERS TAKIN
be ane Castellane fra Burgeses.

CHAP. 50.

NA Castellane may enter within ane Burges house to slay his swyne, gryses, geise, or hennes: Bot he fall come to the dure of the house, and fall demand and speir gif he hes any sic thing, as said is, to sell for silver to the Kings vse; and gif he any hes, he may sell it. Hen. 3. An. 9. c. 19.

2. And gif he hes, and will not sell it, and it bee found
Y vpon

Burrow Lawes.

vpon the calſay, it ſhall be leſome to the Caſtellan to ſlay it; and the neighbours ſhall ſet ane price vpon it, and the price ſhall be giuen to him to quhom that beaſt perteines.

3. And the Caſtellans, or the Kings ſervants, ſhall not do this, bot thrie times in the zeare, that is, at Zule, Paſch, and VVhitſonday onely.

OF THE TERMES OF PLEYES within Burgh. CHAP. 51.

PLeyes of lands, or of moveable gudes within burgh, ilk burgh ilk zeare ſould rin fra fiftene dayes, to fiftene dayes.

2. And the Judge may not aſſigne ane langer day nor fiftene, againſt the will of the perſewer craue and juſtice, except he pleaſe or conſent thereto. Or gif the Iudge prolong the day, be reaſon of the weaknes of the Court, or want of counſell.

OF MEASVRES AND VVECHTS.

CHAP. 52.

Inc. 4. parl. 4. c. 47
Inc. 5. parl. 6. c.
114. **A**Ne Burges may haue in his houſe, ane meaſure for his cornes, ane elnwand, ane ſtane, ane pound to wey: All theſe meaſures, eln, ſtane, and pound, ſould be ſealed with the ſeale or ſtandert of the burgh.

2. It is to witt, that quha ever is found with ane falſe wecht, or meaſure, he ſhall be in ane vnlaw.

HOVV MEIKIL ANE BVRGES SOVD haue. CHAP. 53.

Infr. h. t. c. 137.
Ro. 3. c. 18 v. 1. 2.
intervall. **N**A man may be the Kings Burges of any land, bot gif he do ſervice to the King, quhilk extends to ane Rude of land.

THE BVRNING OF ANE HOVSE or kill. CHAP. 54.

Stat. 2. Rob. 1.
c. 29.

Inc. 1. parl. 4. c. 71
c. 75.

GIf fire paſſes forth of any mans houſe, and burnes ſundrie houſes of his neighbours, na hurt nor ſkaith ſould be injoined to him, out of quhais houſe the fire did come, mair nor he hes alreadie ſuffered, for he hes ſorrow and ſkaith eneugh alredie.

2. And the like is to be vnderſtand of him quha burnes ane other

other mans kill. Bot the authors of sic burnings, fall tinc their service.

3. Bot gif ane man hes lent his kil to ane other man, & within the time of the lenning, it is brunt; he to quhom it is lent, fall be answerable for it; and to restore it againe.

4. And gif ane hyres ane other mans kill, for ane certaine dewtie, and it happins to be brunt, he fall pay nathing for the burning thereof.

OF REPLEGIATION OF ANE BUR-
ges taken without the Burgh.

CHAP. 55.

GIf ane Burges is taken without his burgh, for any debt or trespassse: his neighbours vpon their awin proper expenses, fall passe and borrow him, or repledge him, gif he be taken within the Schirefdome.

2. Bot gif he be taken without the Schirefdome; his neighbours sal passe and repledge him, vpon the expenses of him quha is taken.

THE FORME OF TAKING OF SAI-
sing within Burgh. CHAP. 56.

QWhen any man selles his land, or any parte or portion thereof, he quha selles fall stand within the house, and come forth of it: and the other quha buyes, fall stand without it, and fall enter in it: and the ane fall giue to the Provest ane pennie for his passing forth; and the other fall giue ane pennie for his entres and saising. *Jac. 6. par. 1. c. 27.*
Mar. par. 9. c. 80

2. And gif they exchange lands (*be permutation*) betwix them; ilk ane of them fall giue twa pennies.

IT IS LAVVFUL TO TAKE ANE
poynd for the house maill.

CHAP. 57.

GIf thy mail-man will not pay to thee the house maill at the terme it is lesome to thee to take ane poynd within thy land, and within his house, without licence of Provest or Baillics.

Burrow Lawes.

OF ANE POYND TAKIN FROM ANE *Stallanger.* CHAP. 58.

GIf ane Stallanger (*Cremar*) is auchtand any debt to ane Burges: It is lesome to the Burges to take ane poynd fra him within the burgh, of his proper gudes and geir, quherecver he findes him.

OF LOT, CVT AND CAVILL. CHAP. 59.

IT is to witt, that ane stallanger, at na time may haue lott, cutt, nor cavel, anent merchandice, with ane Burges, bot only within time of ane fair: at the quhilk fair time, any other man hes that libertie, be reason of the fredome of the fair.

OF THINGS LENT TO BAILLIES *of Castels.* CHAP. 60.

NA Burges may be compelled to lenne to the Baillics of the Kings Castell of his gudes, bot vntill fourtie pennies, and for the space of fourtie dayes.

2. And gif the Baillic restores, nor payes not againe the debt, within fourtie dayes; the Burges fall lenne to him na mair, except he please of his awin gude will.

OF ANE BURGES SUMMONED TO *the Kings Court.* CHAP. 61.

*Vid. Jac. 4. parl. 1
c. 3.*

GIf ane Burges is challenged of any querrell, or complaint, in any Court, and is summoned to compeir in the Kings Court; he sould compeir there, and desire his Lords Court (*to be repledged to the Court of his burgh, or his Provest*) he sal be frie, alledgand that he fall be readie to doe richt within burgh, before his awin Provest.

2. And gif he be summoned be his awin Officiar, or Serjant, before lawfull witnes, and compeirs not in the Kings Court: the Kings Baillic fall come to the wardane, and keiper of that fie, and fall haue ane full amerciament of him, gif he hes na lawfull clonzie.

2. And gif he compeirs in the Kings Court, and there makes ane full answeire, and makes na mention of his friedome, or his maisters

maisters sic (*his maisters libertie heretable of replegiation*) he fall remaine, and doe richt in the Kings Court.

OF ANE BVRGES CHALLENGED, AND
hauand na pledge. CHAP. 62.

GIf ane Burges is challenged, or summoned to doe richt for any trespas, and may finde na burgh for him: the Burgesses of that burgh, fall keip him in his awin proper house in bandes, fiftene dayes. And thereafter his neighbours fall bring him to the Kings Provest, and he fall be taken fra them, and led to the house of the Kings Serjant, gif the Burgessis hes na prison, and there fall be zemit, and keiped be his challengers; and the Serjant fall
Iac. 6. parl. 15. c. 273.
finde gude and strang bands.

THE PEACE OF PILGRAMERS.
CHAP. 63.

GIf any Burges is passed in Pilgrimage with licence of the Kirk, and of his neighbours, to the halie Land, or to Saint James, or to any other halie place; his house, and all his haill proper familie, fall be in the peace of the King, and of the Provest and Baillics, vntill God bring him hame againe.

OF LIPPER MEN.
CHAP. 64.

GIf any man dwelland or borne in the Kings burgh, is stricken with Leprosie; and hes substance and geir of his awin to sustaine and cleath himselfe; he fall be put in the Hospitall of that burgh quhere he dwelles.
Iac. 1. parl. 7. c. 105.

2. And gif he hes na thing to liue vpon, the Burgesses of that Burgh, fall make ane collection amongst them, for meate and claith to him; and that collection fall be the summe of twentie shillings.
Numer. 6. 5. Leuit. c. 13. Deuter. c. 24.

3. Lipper men fall not enter within the towne, bot be passing throw it, nor fall not gang fra dure to dure, bot fall sit at the Ports of the burgh, and fall seik almes fra them that passis in, and comes forth.

4. Na man sould presume, or be sa bauld, as to harberie, or ludge ane Lipper man within the burgh, vnder ane full amerciamment.

Purrow Lawes.

IT IS NOT LAVVFULL TO THE PRO-
vest, or Baillies to sell bread or aill.

Edward 3. An. 12
c. 6.

CHAP. 65.

IT is not lesome to the Provest, nor to the Baillies, nor to the Serjants to baik bread, or to brew aill, to be fauld in his, or their awin house.

OF THE VSE AND SERVANTS OF ane Oven.

CHAP. 66.

ILk man quha hes ane Oven, he sould keip and obserue the ordinances made be the gude men of the towne: that is, that he fall not haue mae servants nor foure; that is, ane maister, twa servants, and ane boy. And the maister of the Oven, at ilk time of bailing, fall haue ane pennie for his Oven; the twa servants ane pennie, and the boy ane quadrant.

OF BAKSTERS AND FISHERS.

CHAP. 67.

BAksters, quha baikes bread to be fauld, sould make quhite bread, and well baiken, conforme to the consuetude and approbation of honest men of the burgh, as the time fall serue.

2. And for ilk chalder, the Bakster fall haue als meikill profit as fall be thocht sufficient be the honest men of the town.

3. *Item*, the Baksters quha baikes bread to be fauld, sould not hide the bread, but fall place it in the window, or in the market, that it may be fauld commonllie to all men. And gif the Bakster is conuict in the contrair, he fall pay aucht shillings, and the bread quhilk was hid fall be given to the pure.

146. 5. park 7. c. 98 4. The like is to be vnderstand of fish quhilk is to be fauld; quhilk sould be fauld publicklic in the market.

OF MILLARE.

CHAP. 68.

THe servants in the Kings mylne, or they quha hes ane miln set to them for ferme, or maill, fall haue na servants, bot be the consideration of the gude men of the burgh.

2. And

2. And these servants sould be faithfull, and of gude fame, & they sall sweare to be faithfull to the King, and to his servants, to all men quha comes in the myln. And to the maisters anent the takeing and keiping of the moultter, and to them quha comes to the mylne, anent the keiping of the Cornes, taking of just moultter, and keiping to ilke man his place in the myln, without fraud or guile.

OF BROVVSTERS.

CHAP. 69.

All women quha brewes aill to be sauld, sall brew conforme to the vse and consuetude of the burgh all the zeare.

2. Quherein gif she failzies, she sall be suspended fra her office of brewing for ane zeare and ane day.

3. And gif she makes Gude-aill, that is sufficient.

4. Bot gif she makes evill aill, contrair to the vse and consuetude of the burgh, and is convict thereof; she sall pay ane vnlaw of aucht shillings; or sal suffer the justice of the burgh: that is, she sall be put vpon the Cockstule, and the aill sall be distributt to the pure folke; swa that the thrid part thereof sall be send to the pure in the Hospitall.

5. The like is to be vnderstand of mede, as is of evill aill.

6. And ilk Browster sall put forth ane signe of her aill, without her house, be the window, or be the dure, that it may be sene as common to all men: quhilk gif she does not, she sall pay ane vnlaw of foure pennies.

OF BVCHERS AND SELLING OF

flesh.

CHAP. 70.

Ilk Fleshour quha selles flesh within the burgh, sall sell gude flesh after the custome of the towne, and at the sight of gude men of the towne, sic as Beif, Mutton, Bacon, and sall place them in the window, that they may be common to all men.

2. The fleshours sall serue the Burgeissis, all the time of the slauchter of mairts: that is, fra Michaelmes, to Zule, in preparing of their flesh, and in laying of their lardner.

3. And gif they dight, or prepar the flesh not well, they sall restore the skaith, to the awner of the beast.

4. And the fleshours sa lang as they serue the Burgeissis, and there

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their servants, fall haue their meate and drinke in the Burges house; and for the slauchter of ilk oxe or kow, fall haue ane halfe pennie: for fiue zewes, als meikill; ane for ane swyne, als meikill, as for their service.

THE TIME OF SLAYING AND SEL- ling of flesh. CHAP. 71.

NA man dwelland without the Kings Burgh, fall buy any beast to be slane before the thrid houre be striken in Winter, and ane houre in Sommer.

1. Bot the fleshours dwelling within the burgh, may buy beastes at any houre of the day, to the vse of the burgh.

3. Na fleshour fall buy or slay any beastes in time of nicht, bot in time of fair day light, and within his awin proper buith, & fall put the flesh in his open window. And quha is conuict in the contrair, fall pay ane full amerciament.

OF THEM QUHA SELLIS AIL AND other things within Burgh. CHAP. 72.

1st. 5. parl. 7. c. 98. **G**enerallie all they quha selles any thing within burgh, sic as Baksters, Browsters, Fleshers, Fishsellers, and all Huksters, quha commonly buyes and selles within burgh, fall sell to all men, als well strangers as others, indwellers as outdwellers.

2. And fall not keip in their houses to their awin vse, and of their household, aboue the valour of foure pennies. Because al the rest sould be common to all them quha will buy. And he quha is conuict in the contrair, fall pay ane vnlaw of aucht shillings.

OF HVKSTERS.

CHAP. 73.

HVksters, quha buyes and selles for profite within burgh, fall buye na thing to sell againe, vntill thrie houres be striken; nor na wrocht wooll, nor na kinde of wooll, bot quhite wooll, nor na threid; nor fall not buy nor receaue any sic thing, bot in the time of Fair. And quha is conuict in the contrair, fall pay aucht shillings; and also fall tine the thing quhilk he bocht.

OF

OF FALS VVECHT AND MEASVR.

CHAP. 74.

HE quha is convict of falsset in weghts, or measures, sall be punished be the Baillies of the burgh for his trespatse, anis, twise, thrise.

2. And for the fourt fault, he sall be in the Kings mercie, of life and limme. Because this falsset perteines to the Kings court.

OF ANE FALS BROKER AND SERIANT.

CHAP. 75.

GIf any Broker or Serjant within burgh, consents to falsset, or commits falsset, or takes hyre, or profite, to vndoe or empair the law of the burgh, and is convict thereof, he sall pay ane vnlaw of aucht shillings, and fall tine his office, and his sic, and thereafter sall not be receaved to be ane witnes anent any thing.

THE ELECTION OF ^a BROKERS.

^a Serjants.

CHAP. 76.

BROKERS sould be elected and chosen commonlie be all the Burgesles; and they sould be of gude brute and fame; and sould sweare to be faithfull to the King, to the Provest and Baillies of the burgh, in full and plane Court.

THE ELECTION OF BAILLIES.

CHAP. 77.

AT the first head Court after *Michaelmes*, the Baillies sould be chosen of faithfull men, and of gude fame, be the common consent of the honest men of the burgh. *Iac. 3. parl. 5. c. 29. parl. 7. c. 56. parl. 14. c. 108. Iac. 5. parl. 4. c. 29.*

2. And they sall sweare fidelitie to the King, and to the indwellers within the burgh, and that they sall keip the custumes and lawes of the burgh; and that they sall not minister justice to any person, for anger, hatreat, feare, or lufe of any man, bot according to the advise, counsell and judgement of the wise and gude men of the burgh: They sall also sweare that in the ministration of justice, they sall spare na man for feare, loue, haitred, consanguinitie of any man, or for tinsell of their awin gudes and geir.

OF

Burrow Lawes.

OF FORISTALLARS WITHIN BURGH.

CHAP. 78.

Edward. 6. An. 5. 6. c. 80.
Edward. 2. c. 10.
Eliz. an. 13. c. 22 **N**A man dwelland within nor without burgh, sal in the market day patle forth of the Portes of the burgh, to buy any thing, before that thing be brocht within the Ports of the burgh: And he quha is convict heiranent, fall pay ane vnlaw of aucht shillings.

OF THE TIME OF SELLING OF FISCH.

CHAP. 79.

Iac. 5. parl. 4. c. 20. parl. 7. c. 113 **Q**Vha bringes fishe to the market to be sauld, fall not bring them in till ane house, bot to the Kings market; gif he comes in day licht.

Iac. 5. parl. 7. c. 98.
Iac. 6. parl. 12. c. 148. par. 6. c. 88. 2. And gif he comes in time of night, he may harberie his fish quhere he pleases; swa that quhen the day arises, all and hail the fish fall be brocht to the Kings market.

3. And fall be sauld cōmonlie to all men quha pleases to buy.

4. Na man sould presume to buy fish, to sell them againe at the sea coast, or in any other place, bot in the Kings market. And he quha is convict in the contrair, fall pay ane vnlaw of aucht shillings.

5. Gif any fisher vse to come in time of night to sell his fish, for profit, and is convict therfore, he fall pay ane vnlaw of aucht shillings.

6. *Item*, na man fall buy fish to be sauld againe, or to be cutted in peeces, before the first houre in the Sommer, and thrie houres in the Winter. And quha does in the contrair, fall pay ane amerciament of aucht shillings.

OF ANE BURGES CHALLENGED

hauand ane pledge. CHAP. 80.

Glif ane Burges is challenged to doe richt for ane trespassse, and deteined be his challengers within burgh, and offers ane pledge for him: gif he is taken in time of day, his challengers fall convoy him to the house quhere he sayes his pledg is.

2. And gif he is taken in time of night, with cry and clamor; he

he sould be detained be his challengers, and the watchers of the towne vntill the morning: And his narrest neighbours sould inquire for quhat cause he is taken.

3. And gif he may finde ane pledge, it is reason that he finde him (*and cause him to be oblissed*)

4. Otherwise he sould be conveyed to the Serjants, (*or brokers house*) and there he fall be keiped be his challengers; gif they haue no prison, vntill justice be done vpon him.

OF THE TIME OF CVMING TO COVRTS.

CHAP. 81.

QVha ever sould aske or doe Justice (*persewer or defender*) within burgh; he sould come to the Court in Winter, before thrie houres; and in Sommer, before ane houre.

2. And gif he comes before the Court arise, the persewer fall persew, and the defender fall answere before the Provest, or other men of the burgh in plain Court.

OF PURGATION TO BE MADE BEFORE THE PROVEST.

CHAP. 82.

GIf the Baillies or the Serjants hes any challenge against any man, they may not produce witnes him against, in any challenge, bot the defender fall acquite and clenge himselve, conform to the law. *Hen. 3. an. 9. c. 28*

OF HIM QVHA IS CHALLENGED
with many complaints in ane day.

CHAP. 83.

NA man, except he please, sould in ane day, in ane Court, *Quon. Att. c. 65.* make answere to mae complaints nor ane. Bot he fall answere to sundrie complaints, at the instance of sundrie men.

OF VVADSET LANDS.

CHAP. 84.

GIf ane Burges hes ane other mans lands wadsett to him, he may quite them out (*that is, he may desire the other man quha wadsett them, to quite them out*) quhen he please, except they be wadset to ane certaine terme and day.

2. And

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2. And quhen the day is by past, the Burges sall offer his lands to him at thrie Courtes (*for payment of the silver lyand-upon them*) and gif he will not redeme them, the Burges may sell the lands, and take to himselfe his awin silver, and the superplus quhilk rests, sall be given to him, to quhom the lands wadsett, pertained of before.

THE PRIVILEGE OF ANE MINOR.

CHAP. 85.

ANe minor of les age within burgh, sould not make ane eath, nor be witnes, nor to make answer, or to pley in any action; bot his tutour sould answer for him, and receave judgement & justice, according to the custome of the burgh.

WATCHING WITHIN BURGH.

CHAP. 86.

Edward. 1. An. 13
6. 13

FOrth of ilk house inhabit, ane man sould come to watch, for feare of perrell, quha sall passe fra dure to dure, with ane staff in his hand, and sall be of ane mans age. And quhen Curfure (*Coverfew*) is rung in, he sall come forth with twa wapons, and sall watch cairfullie and discrietlie, vntill the morning. And gif he failzie therein, he sall pay ane vnlaw of foure pennies.

2. Except widowes, quha sall be compelled to watch (*furnes ane man to watch*) gif she is pertaker with her neighbours in buying and selling: And likewise, she sall be subject to all other burdines.

OF BLAE AND BLVDIE.

CHAP. 87.

Quon. Att. c. 83.

GIf ane man strikes ane other, and makes him blae and bloudie; he quha is blae and bloudie sould be first heard, gif he comes first, and makes his complaint: For he sould be first heard quha is skaith is maist notorious.

2. And gif they be baith blae and bloudie, he quha first accuses sall be first heard.

THE

THE PAIN OF PERIVRIE, AND
false testimonie. CHAP. 88.

HE quha is convict of perjurie, or of false testimonie, fall never thereafter be heard in any cause to make ane eath, or to be witnes.

OF SVVYNE VVITHIN BVRGH.
CHAP. 89.

IT is not lesome to ane Burges, or to any man dwelland within burgh, to hald swyne; except they haue a keiper followand them, or be fed in ane sty, quherethrow their neighbours fall incurre na skaith.

NA MAN SOULD HARBRIE STRANGERS.
CHAP. 90.

NA man dwelland within burgh, fall harberie in his house any stranger, langer then ane nicht; except he will giue ane pledge for him, or he himselfe be pledge for him. *Edward. 1. c. An. 13. c. 4.*

OF PEACE IN TIME OF FAIRS.
CHAP. 91.

AFTER that the peace of the fair is proclaimed within burgh, in the time of that fair, na man fall be taken nor attached.

2. Except he break the peace of the fair, in comming to it, or returning from it, or remaining in it, or gif he be the Kings outlaw, or ane traitour, or sic ane malefactor, quhom the peace of the Kirk sould not defend.

3. Gif he be sic ane malefactor, or ane breaker of the peace of the fair, he fall be attached surelie, vntill the Court of the fair; and then he fall be challenged, and compelled to stand to richt and justice fall be done vpon him anent that, quhereof he is challenged.

OF THINGS STOLLIN, OR TINT, AND
thereafter found in the Fair. CHAP. 92. *Exod. c. 22. 9.*

QVha findes his awin gudes in the Fair, quhilk he alledges was stollen, rest, or tint fra him; he fall convoy him with quhom the geir was found, to the Baillie of the fair, and he fall declare to the Baillie, the name of his maister, & quhere he dwels. *Edward. 4. An. 17. c. 2. Richard. 3. An. 1. c. 6.*

Z

2. And

Burrow Lawes.

2. And he quha is challenged, fall finde ane pledge before the Baillie of the fair: to the challenger, that vpon the next fifteene day after the fair, he fall exhibit and produce the thing challenged, in that place quhilk he named to the Baillie, and there sal doe right to the challenger.

3. Gif he can not finde ane to be pledge for him, the Baillie fall retene the thing challenged, vntill he finde sure pledges to the challenger; and also to compeir at the Court of the fair.

4. And gif he compeirs and finds pledges, as said is, the thing challenged fall be restored to him, and the challenger fall periew his complaint.

5. Gif he quha is challenged, compeirs not in the Court of the fair; the thing challenged sould be given to the challenger, vpon gude and sure pledges: That gif any ither man comes and challenges that thing, he being summoned be the samine Baillie, he fall reproduce that thing in the samine place, quhere he receaved it, in the samine estate as he receaved it, or else the valour thereof, gif it is perished, or is deteriorat in his possession, and there to doe as law will.

OF BOND-MEN FUGITIVE.

CHAP. 93.

GIf any man in the fair, findes his bondman fugitiue fra him, sa lang as the peace of the faire indures, he may not take or apprehend him, nor attach him.

THE PLEDGE OF ANE DEAD BVRGES

CHAP. 94.

GIf ane Burges is pledge for ane other, and the Burges quha is debtour, deceis; and his heire hes not gudes to pay his debt, except the lands quhilks his father left to him, the pledge fall retene and possesse the lands, be the space of fourtie dayes.

2. And within the fourtie dayes, he sould offer the lands to the narrest kinsmen and parents, at thrie Courts.

3. And they fall haue the lands, gif they will buy or redeme them.

4. Bot gif they will not, it fall be lesome to the pledge to sell the lands, the best way he may, and satisfie the creditour, for his debt, and restore the superplus, gif any be, to the debtour.

THE

THE CREDITOUR MAY INTROMET
with the debtours lands. CHAP. 95.

GIf ane Burges is awand debt to ane other Burges, to ane certaine day, and hes na other thing to pay, bot his lands; the creditour may intromet and reteine the lands, be ane zeare, and ane day. And within zeare and day, fall offer them to the narrest kinsmen, quha fall haue them, gif they will buy or redeme them: And gif they will not, it is lesome to the creditour to sell them, the best way he may; and gif there be any superplus, the samine fall be given to the debtour.

OF FRAVDFVL REDEMPTION OF
lands. CHAP. 96.

GIf ane Burges selles his lands, be reason of necessitie, and they are offered to his narrest kinsmen; and they haue not substance and ritches to buy them, the time of the selling: And after quhen they see the lands well bigged, and inhabit, and some of them comes and offers to buy them, with silver fraudfullie lent to them, they sould na wayes be heard to doe the samine, nor zit to retreat or call back againe the selling of the lands to others.

ESSONZIES WITHIN BURGH.
CHAP. 97.

NA essonzie sould be within Burgh, in any pley betwix Burges and Burges, bot of lands challenged; or be reason of infirmitie proven be witnes, or be the Kings service.

OF BARKERS WITHIN BURGH.
CHAP. 98.

Within burgh, na Sowtar may buy hydes to be barked, bot gif the horne and eare be like and equall in lenth. *Eliz. An. 5. c. 8. An. 18. c. 9.*

ANE SOVTER, LITSTER, AND FLE-
sher may not be Gild brether.
CHAP. 99.

NA Sowter, Litster, nor Fleisher, may be brether of the merchand Gilde; except they sweare that they fall not vse their offices with their awin hand, bot onlie be servants vnder them.

Burrow Lawes.

OF LANDS GIVEN IN FEVFERM.

CHAP. 100.

GIf ane gives his lands to ane other in fewferme, reservand ane certaine ferme and dewtie to be payed to him, and his heires. And the fewfermer thereafter constrained be necessitie, is compelled to sell the lands: He quha gaue and lett them in fewferme, and his heires, sould be esteemed as narrest, before any others to buy the samine lands.

OF ANE BVRGES EJECTED FORTH

of his possession. CHAP. 101.

QWhen ane Burges is in possession of any lands, justlie or unjustlie; and another alledges him to be trew and lawfull heire of the lands; and ejects and dispossesses him forth of the lands and his possession, be his authoritie, and without order of law: He quha was first in the possession, sould be restored to his possession, before he make answer to him quha ejected him.

2. Because at all time, he quha was in possession, justlie or unjustlie, shall recover his possession, and retene and keip the samine, untill he tine it be order of law. And he quha committed the ejection, shall be in the Kings amerciament.

OF LYNERS WITHIN BURGH.

CHAP. 102.

THe Provost with the Councell of the communitie sould elect and cheise lyners, at the least, foure wise and discret men. Swa that na cry nor complaint come to the Kings Chalmerslane, for want and inlaik of lyning.

2. And gif any complaint is made, they all shall be in ane vn-law, as well the Baillies as the Lyners.

3. And the Lyners shall sweare, that they shall faithfullie lye in lenth as braidnes, according to the richt meiths and marches within burgh. And they shall lyn first the fore pairt, and thereafter the back pairt of the land.

OF SKAITHS TAXED IN PLEYES

of injuries. CHAP. 103.

GIf any man complains that ane other hes beaten, or stricken or done to him ane other injurie, and taxes his damage
and

and skaith, to ane hundreth pounds, or to fourtie shillings, or to *Mar. par. 7. c. 64* samekill as he please: And the defender in his answer, denyes wrang and vnlaw, and sayes, I confesse that I haue done to thee that quhilk I sould not haue done; and I am reddie to make ane mends at the sight of honest men. Gif he swa answeres, he does well, and sould make ane mends and satisfaction.

2. Bot gif he maks na sic answer, bot denies the hail clame, & at ane lawfull day, may not purge and clenge himselfe, he fall be convict of ane vnlaw, and in all the damage and skaith quhilk his aduersar taxed against him.

OF HIM *QVHA* INIVRIES THE PRO-
vest or Baillies. CHAP. 104.

GIf any man railes or speikes evill to the Provest and Baillies in plaine Court; he in presence of his friendes, fall expresse *Quon. Att. c. 40* and lewdlie say, that he did lie, and aske mercie with ane pledge; *1ac. 4. parl. 6. c. 87.* *1ac. 5. parl. 4. 29.* (that he fall not doe the like againe) and vpon the halie Eu-angell fall sweare that he knawes na evill of him.

2. And gif thereafter be ane temerarious hardnes he does the like, he fall be in the will and jurisdiction of the Provest, Baillies, and of his neighbours, to make ane mends of his injurie done be him.

OF PORNDING OF ANE BVRGES OF
ane other Burgh. CHAP. 105.

NA man sould peynd his neighbour, Burges of ane other burgh, for ane other mans debt, or trespass; except he be *Sup. h. t. c. 4.* principall debtour, or pledge, or gif his Provest failles to doe justice, as God forbid.

OF THE KEIPING OF ANE BVR-
ges heire. CHAP. 106.

GIf ane Burges deceis, his heire, and all his moveabill gudes, fall be in the custodie of his friendes of the mother side; and all his heretage in the custodie of his friends, of the father side.

OF VVIDOVVES.
CHAP. 107.

GIf ane widow is within burgh, and will buy and sell with her neighbours, she fall communicat with them in all helpes. *Sup. h. t. c. 103.*

Burrow Lawes.

OF ANE BVRGES DWELLAND

without the Burgh.

CHAP. 108.

ANe Burges dwelland without the burgh, may not buy nor sell, nor is frie in any other burgh; bot in that burgh in the quhilk he is Burges.

OF KEMESTERS.

CHAP. 109.

GIf the Kemesters (*of wooll*) passe forth of the burgh a landwart, there to worke, and to vse their offices, hauand sufficient wroke to occupie them within burgh; they sould be taken and imprisoned.

ALIENATION OF THE CHIEF

messuage.

CHAP. 110.

NA man may analie fra his heire the chief messuage (*principal bigging*) nor giue the samine to his wife in dowarie; gif he hes any other lands to giue to her, or except he be compelled throw necessitie to sell the samine.

OF DELAYES, OR ESSONZIES

within Burgh.

CHAP. 111.

IT is to be vnderstand, that how many delayes or essonzies the defender hes, the persewer fall haue als many, anent skaiths and damage, or injuries, or challenge of lands; and for ilk delay, ane amerciament fall be taken at ilk Court, and fall be judged at the fourt Court of the pley: And he quha vses essonzies at his entres in Court, fall warrand and defend his essonzies. And gif he alledge any reasonable defenses quhy they sould be admitted, they fall be receaved; and gif he doe otherwise, all the amerciaments fall be taken vp: And quhen this is done, he fall passe fordwaird in his pley.

OF SUMMONS WITHIN BVRGH.

CHAP. 112.

ANe summons made within burgh against ane Burges man, be the Kings Serjant, and not be the Serjant of the burgh, is
not

not valide, nor sould not be receaved as lawfull. Because all summons within burgh sould be done, be ane Serjant of the burgh, quha sould summon sic ane man, sic ane day, at his dwelling house, before sic witnes, seand and hearand to compeir before sic Provest and Baillies, to answeire to sic ane man, anent sic ane thing, or in sic ane cause, or to sic ane Breive. And the Serjant quhither he compeir or not, sould not sweare; bot his witnes fall sweare, anent the record made in plaine Court, and the verification of the summonds to haue bene execut lawfullie.

OF PLVRALITIE OF DEBTS, PLED-
ges and of vnlawes. CHAP. 113.

OF ane debt, there is bot ane debtour; and ane borrowgang; ane vnlaw, for ane trespassse; suppose there be mae debtours or pledges (*and ane of them pay the debt, the rest are na langer ob-
lissed bot are made frie*)

OF SAISING GIVEN WITHIN BURGH.
CHAP. 114.

ANe Saising given within burgh, in presence of honest neighbours, suppose it is not given within Court, is gude and sufficient.

HERITAGE BEFORE IT BE SAVLD
sould be offered to the narrest heires of the analier.
CHAP. 115.

Levit. c. 25. 25.

GIf any heritage of ane Burgage, fallis & comes to any man, or woman, brother or sister; of the fatherside, or of the mother side; and it is necessare that the heire to quhom it perteines, *Sup. h. t. 45 c. 106
Infr. c. 127.* throw povertie, or any other cause, to sell and analie, to wadset, or in fewferme to let it. It is not lesome to him to doe this to any stranger, gif the narrest kinsmen of that heire, will buy, or haue that burgage in wadsett, or in fewferme.

2. It fall not be lesome to any man, induring the heires lifetime, any maner of way to buy these lands, or frie tenement, vntill they be first offered to the narrest friendes of him quha wald analie them.

OF

Purrow Lawes.

OF ANE BVRGES VVITHIN BVRGH *attached.* CHAP. 116.

GIf any within burgh dwelland is attached (*without the burgh*) be the Kings Serjant, he sould not be compelled to passe forth of the libertie of the burgh, to any Castell, or close place, except he can not finde pledges for himselfe.

RESIGNATION OF LANDS VVITHIN *Burgh.* CHAP. 117.

*Mar. pr. 9. c. 81
14 c. 6. par. 12. c.
133.*

GIf any man purelie and simplie, resigne his lands and tenement, in the hands of the Baillies; he thereafter may not giue possession of that land or tenement to others, vntill he be first lawfullie repossessed in them.

OF PASSINGERS IN THE TIME *of night.* CHAP. 118.

Quon. Att. c. 62. **I**T is not lesome to travell in time of night, without lawfull witnesses; except he be ane man of gude fame; or for thir causes, or other necessare causes, that is, to bring ane Preist to ane seik man, or to carie cornes to the myln, or to return therefra, or for gudes laitlie stollen or tint.

2. And gif it is necessare to any man, for thir, or any other necessare causes, to travell in time of night, he sall take the testimonie of the honest men within the towne, fra the quhilk he passies, and of the first towne be the quhilk he passies.

THE MEASURE OF ANE RVID OF LAND. CHAP. 119.

ANe Ruid of land within ane Baronie, sould be measured be sax elnes, quhilk makes auchtenene moderat, or measurable futes, that is, neither of the maist, nor of the least.

2. Ane Ruid of land within burgh, conteines twentie fute.

THE LIBERTIE OF BVRGESSES.

CHAP. 120.

Edward. 1. An. 17. c. 2. **G**If Burges-s, Merchands, and Dustifutes (*Cremar*) quhen they passe forth of the foure Portes of their burghs, in exercising

cing and vsing their merchandice, does commit any wrang Richard. 3. 11.
without the saids foure Ports, or within ane Baronie; they fall vn- 1. c. 6.
derly the law of merchands without any condition, at thrie hours Infr. c. 134. 140
the morne thereafter, quhilk is commonlie called the houre of
Causses.

PVNISHMENT OF THIEVES VVITHIN

Burgh.

CHAP. 121.

GIf ane man is taken within Burgh, with ane bread, the price
of ane halfe pennie, he sould be scourged throw the towne.
And from ane halfe pennie, to foure pennies; he sould be mair
vehementlie scourged.

2. And for ane pair of shone, of the price of foure pennies,
he fall be put vpon the pillorie, or half-fang; and thereafter at the
head of the towne, sould be banished forth of the burgh.

3. And swa forth, fra foure pennies, to aucht pennies, and ane
quadrant: Likewise, he fall be put vpon the pillorie, and fall be
convoied to the head and chief place of the towne, and his taker
fall cause cutt ane of his lugges.

4. And fra aucht pennies, vntill sixtene, and ane halfe pen-
nie, he fall be put vpon the pillorie, and thereafter convoied to
the end of the towne: And his taker fall cause his other lug to
be cutted.

5. And thereafter gif he happines to be taken with aucht
pennies, and ane quadrant, his taker fall cause him to be hanged.

6. *Item*, quhen ane theif is taken with threttie twa pennies,
and ane halfe pennie: his taker fall cause him to be hanged.

THE PAIN OF REBELS VVITHIN

Burgh.

CHAP. 122.

GIf anie man is disobedient, or rebell within Burgh, against the communitie of the burgh; his house fall be callin down to the earth, and he fall be banished forth of the burgh. Jac. 4. parl. 6. c. 87
Mar. parl. 9. c. 83

OF LYNING OF LAND.

CHAP. 123.

GIf in presence of baith the parties, ane land is lyned be the
Baillies, and faithful men of the towne; and the meithes and
marches

Burrow Lawes.

marches set downe; and that land is possessed, conforme to these marches, be ane zeare and ane day, the samine land sould not be lyned over againe.

2. Bot gif any of the marches is removed, the Baillies fall doe justice to the complainer.

THE DIVISION OF ANE BVRGES GVDES.

CHAP. 124.

Lib. 2. c. 37.

THe custome is within the burghes of this Realme, passed memorie of man, quhereof there is na memorie in the contrair: That quhen ane Burges hes children begotten with his awin wife, and thereafter deceiffes; the thrid parte of all the gudes and geir pertienes to the sonnes and dochters lawfully begotten.

Lib. 2. c. 33. 8. 2. And the eldest sonne and heire of that man and wife, fall haue the like parte and portion, as the other bairnes, that is, equal with any of them. Except he be foris-familiat be his father.

MOVEABILL HEIRSCHIP PERTEI- ning to the heire.

CHAP. 125.

156. 3. parl. 7. c. 53.

GIf ane burges man or woman deceis, quhither he lies made Testament or not, of his gudes and geir: his heire fall haue to his house this vtensell or insicht (*plennissing*) that is, the best burde (*meat-burde*) ane burde-claith, ane towell, ane bassin, ane lawer, the principall bed with the sheits, and the rest of claithes pertaining to ane bed, ane fether-bed, the best leid, with the mask-fatt, ane gyle-fat, ane barrell, ane gallon, ane kettill, ane brander, ane posnett, ane bag to put money in, ane eulcruik, ane chimney, ane water pot. The premissis may not be left in legacie fra the house.

2. *Item*, quhat ever is bigged, planted, and set in the earth, fall stand still and follow the soyle and the ground.

3. *Item*, the heire fall haue ane kist, ane huke, ane pleugh, ane wane, ane cart, ane chariot, the greatest brasen pott, and ane litill pot and ane pan, ane roasting iron, ane girdill, ane mortar, ane pastell, ane dish, ane dibler, ane charger, ane cuippie; gif there betwelue or mae spunes, the heire sal haue twelue; gif there be bot twelue, or fewer, he sould haue bot ane, he fall haue ane stule, ane furme, ane flail, the weyes, with the wechts, ane spaid, ane aix.

4. *Item*,

4. *Item*, be ane decreit given be the Burgeses of *Berwick, Edinburgh, Roxburgh, and Stirling*, in the zeare of our Lord 1395. vpon Mononday, after Vphaliday, at the Abbay of *Halyrudhous*, beside *Edinburgh*, It is statute and ordained, that Ships, Craers, Boats, or horle perteining to ane Burges defunct and deceitied, nawayes perteines to his heire, as heireship, bot onely the beast pantray (or horse) fall perteine to him, quhilk the Burges had (the time of his deceis) swa that he be not left in legacie, to ane religious house: And gif he be in legacie, the heire may seik the next best horse after him.

This 4. verse & unto the end of the chapter, is not writte in the auld bukes.

5. *Item*, ilk Burges may leaue in legacie, his armour and vrensell of his house, to quhom he please vpon his dead bed, or in his leige powstie, reservand to his heire his principall armour, and vrensell.

6. *Item*, be the samine decreit, it statute and ordained, gif ane Burges hes procreat with his wife lawfull bairnes, quhither he or she deceis, the thrid parte of the gudes and geir, shuld be given to their sonnes and daughters. And their heire fall haue the like portion with the rest, except he be foris-familiat, as said is.

7. Bot all these gudes, quhilk are knawin to perteine to the heire, as heireship, may be sauld be the Burges in his leige powstie, gif he be constrained or opprest with povertie, or necessity, and that be verified be twelue leill men.

8. Be the law, the best of all vesselles, and vrensell foresaid, fall perteine to the heire, gif they be not sauld and analied be the defunct, before his deceis, as said is.

THE DAMNAGE AND SKAITH OF
beastes within Burgh. CHAP. 129.

I*tem*, gif Burgeses haldes within burgh, or in any other place, swyne, quhereby their neighbours incurres, or receaves any damage or skaith: the swyne found doing the skaith, without ane man followand them, conforme to the lawes of the burgh, may be slane and eaten be him quha finds them.

2. Gif other beastes be found, as said is, for ilk fure ane pennie fall be given, or the awner thereof, fall satisfie for the skaith. Bot it fall be in the will and election of the Burges, quhither he will receaue the foure pennies for the foure feit, or the price, or the restitution of the skaith.

3. *Item*,

Burrow Lawes.

3. *Item*, gif ane Burges makes ane principall hedge, or any other close place, and findes therein his neighbours beastes be the quhilk he is damnified and skaithed; the awner of the beastes fall make ane mends and satisfaction for the skaith. And mairover, fall giue foure pennies to his seruant, quha suffered the skaith, & big vp againe, the places quhilk the beastes brak down.

4. And gif any man findes geis, hennes, or goate, doand to him skaith, he may take the head, with the beak of the geis, and the hennes, and stick them in the earth, and fall eate their bodies, gif he please. And he fall escheit the goates, and eate them gif he please.

THE MANER OF BUYING AND SEL- ling of lands within burgh. CHAP. 127.

Levit. c. 25. 25.

A Ne man may proue landes to be bocht and fauld within burgh, conform to the lawes and constitutions of the burgh be twelue leill and honest men burgesses, and ane Baillie;

2. Quha fall verifie that the seller did offer the lands in thrie head Courts, to his narrest friendes and kinsmen.

3. That the seller of the lands, obtained saising thereof, vpon the ground of the lands before them, and the Baillie; and that he gaue ane pennie for his entres. And that he possessed the lands be the space of ane zeare, and ane day, peaceablie without any challenge made thereto be any man.

4. And gif all the twelue men, and the Baillie, are deceifed; he may proue the samine be twelue men liueand, quha fall swear the great eath, that they fall suth (*veritie*) say, and na suth conceill, according to their knowlege: And that they haue perfittly sicht, hearing & knowlege of that thing, quhilk salbe speired at them, be narration of their fathers, or be sicmen, to quhom they gaue als great faith and credence, as to them selues.

5. And fall testifie that the seller of the lands, fauld them, be reason of mister and povertie; and that the povertie was proven be twelue leill and faithfull men before the lands was fauld: that is, be foure men dwelland vpon the ane side, and foure vpon the other side, and be foure foreanent the house of the seller: And gif they sweare not, in this maner, the alienation is null.

OF THINGS BOCHT WITHIN BURGH.

CHAP. 128.

NA man fall buy any thing within burgh, without the seller finde him sufficient borgh of haymhalde; except meate, drinke, claies shappen and cutted to be worne, and sic like other small merchandise.

2. And gif he otherwise buyes, albeit he buy in ane lawfull market, he fall tine that quhilk he buyes, gif it be challenged be any man.

ANE BURGES SOULD BE BORGH
for ane other.

CHAP. 129.

ILke Burges sould be pledge for ane other, anis, twise, thrise, and ay and quhill he tine some thing, and be ane loser; and thereafter he is not oblissed to be pledge for him, except he of his awin frie will please, and be satisfied for his skaith susteined for him.

OF BROVVSTERS FLESHERS AND
Baikers.

CHAP. 130.

SIc like, as said is, Browsters, Fleshers, and Baikers fall lenne (*and thrist*) to their neighbours aill, flesh, and bread, sa lang as they buy fra them. And gif they pay not, they are not halden to lenne (*or thrist*) any mair.

THE PAIN OF ANE VVIFE
trespassand.

CHAP. 131.

GIf ane Burges wife committes ane trespassse against her neighbour, and without consent of her husband, she findes ane pledge, to answere as law will, and answeres fulishlie in Court, and is convict thereanent be dome of Court: her husband is not oblissed to answere for her; neither anent the amerciament nor the clame of the partie adversar, attour the valour of foure pennies, bot gif he please. Bot he sould correct her as not know- and quhat she sould doe, and as ane barne within age; seing she is not at her awin libertie.

Burrow Lawes.

THE GREAT PAIN OF FALS VVECHTS and measures. CHAP. 132.

*The pane contei-
ned in this chap-
tour perteynes to
the King. vid. fu-
pr. c. 74.*

GIf any man or woman, be inquisition before the Baillies is convict of false wechts, or measures: he or she shall be in the Kings mercie, of life and limme; and of their lands and tenements, and their heires shall be forefaulted, except the King of his grace remit them.

THE KEIPING OF THE LAVVES within burgh. CHAP. 133.

IN all burghes of this Realme, the Mair and auldermen of ilke burgh shall cause twelue leill men, of the maist sufficient and discreit men of the Burgh, sweare that they shall keip all these burrow Lawes after their power; and shall cause them to be kept and observed within the burgh.

OF ANE PLEY BETVVIX ANE DV- stifute and ane other man. CHAP. 134.

*The chapters fol-
lowing are in the
buke of Scone on-
lie.*

GIf ane stranger merchand travelland throw the Realme, hauand na land nor residence or dwelling within the Schirefdome, bot vaigand fra ane place to ane other, quha therefore is called *pied-puldreux*, or dustifute; and ane other man happens to doe to him felonie, or any other injurie, quhere ever he finds him, he may within burgh, or without burgh, gif he please, find ane pledge, that he shall persew his clame against him.

2. And gif he can finde na man to be pledge for him, bot offers his awin fute for his pledge (*that he shall not passe or flee away*) he shall be kept without any damage or skaith.

3. And the man against quhom he hes found the pledge, shall be attached to answer to him, within the thrid flowing and ebbing of the sea, that is, within ane day and ane nicht, without any farther delay.

4. And zit againe he shall be called lawfullie to compeir within the time of seven houres of the day, or of the nicht; that is, thrie houres for thrie delaies; & other thrie houres for thrie essonzies; & at the sevent houre, he sould compeir & answer peremtourlie.

5. And justice shall be done of the injuries, damage, and expenses, conforme to the persewers clame, and the answer of the defender, & the persewers probation, gif he any hes; & gif he hes nane,

nane, according to the acquittance & purgation of the defender.

6. Gif the pley is of thift, or felonie, the complaint fould be in that fame place declared and ended without any favor. And gif the defender is convict, he fall answer to the persewer, of al the skaith craved fra him, and sal satisfie, or fine with the King for his life, or else justice fall be done vpon him, according to the law.

ANE STATVTE MADE BE KING ROBERT
BRUCE, anent recent deforcement within Burgh.

CHAP. 135.

IT is statute be King Robert Bruce, first of that name, for helpe of the pure, anent recent^a deforcement within burgh. *Stat. with. c. 4.*

2. Gif any man complaines to the Provest and Baillies of the burgh, and he finde ane pledge that he fall persew his complaint, that he is vnjustlie deforced be sic ane man, of sic lands, or sic ane tenement, or sic ane annuell rent; the maker of the deforcement fall be summoned incontinent, and fall likewise finde ane pledge to answer, and compeir at sic ane land, vpon the ground thereof before the Baillies, or the Provest of the burgh, to answer to the compleiner. *Stat. I. Rob. I. c. 9.*
Inc. 6. parl. 7. c. 117.
a. I. Any wrongs or forceable deid. infr. vers. 7.

3. And without delay the Court fall be halden vpon the ground of the land.

4. The assise fall proceed, quhither the deforcer cōpeir or not.

5. And the fame day before the Judge rise, it fall be determined be ane gude and vnsuspect assise, to quhom of them pertains the said land, tenement or annuel rent; & he against quhom the assise delivers, fall never be heard thereanent heir after.

6. And in this pley, na delayes fould be heard, nor essonzies, defaults, nor pledges for compeirance, as vse is in other pleyes; bot the Procelle fould proceed plainlie, not onely anent the cognition of the possession, bot also anent the sic and frie tenement.

7. Because the pley of recent deforcement, touches the frie tenement, the sic and possession, and some time ane of them severallie: For recent deforcement, is otherwise called recent spuilzie (*ejection*) or recent intrusion.

8. For some time ane man is deforced of his possession, quhen ane man hes lands wadset to him, and is vnjustlie ejected forth of them.

9. And some time ane man is deforced of his frie tenement,

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quhen he hes lands in liferent, and is ejected vnjustlie forth of them.

10. And some time ane man is deforced of the fie, quhen ane man can not haue entres, or recourse to his lands, after the deceis of his father, quha had trie teneiment thereof.

11. Some time ane man is deforced of the possession, frie teneiment, and the fie conjunctlie, as oftimes falles out, and happins quhen ane man is vnjustlie ejected forth of all his heretable lands posselied be him, and is spulzie'd thereof be him, quha hes neither law nor richt thereto.

THE FORME OF PROCES TO RECOGNOS lands for non payment of annuel rent. CHAP. 136.

*Iac. 4. parl. 20.
c. 20.*

GIf any man will intend action or proces against his tennent, for non payment of his zearlie dewtie; and therefore to recognise the land, or tenement to himselfe. First he sould palle to the land with twa witnes, at the fewest, ane Burges, and ane Serjant of the burgh, and take earth and stane out of the said land, & present the samine in the Court before the Baillie: And do swa at the thrie head Courts of the burgh.

2. And the earth and stane sould be put in ane littill bagg, and sealed with the Baillies seale, and keiped be him to quhom the annuell rent pertienes, vntill the fourt head Court. And then the samine land, and stane of the thrie head courts, fall be presented be him to the fourt Court; and fall aske and craue dome of possession, and it fall be given to him.

3. Bot before the dome, the defender may aske the sight of the proces, and the reading of the rolment of the Court, quhilk sould be given and granted to him; otherwise he may finde ane pledge, that dome sould not be given vpon that land. And gif dome be given in the contrair, the samine may be againe said, and falsified.

4. *Item*, gif the earth and stane be not presented in Court, as said is; the defender may finde ane pledge, that the proces is not lawfull.

5. *Item*, gif the earth and stane is taken without witnes in manner foresaid, the proces is null. And sic like gif it is not signed be the Baillie.

6. *Item*, gif the defender cōpeir in court, & before the dome is pro-

is pronounced, and offers to pay all the annuell rent aucht and all the time, that the land was not strenzeable; without all contradiction the same should be received.

8. *Item*, gif after the dome given, he compeir within zeare and day, and payes all the arrierages of the annuell rent; that is, all the debtes for the termes bygane; be the law, he should bruke and possesse his land. And swa far mair, he shall keip his land, gif he compeires before the dome or sentence.

9. The tennent is ever oblitted to pay to his overlord, his annuell rent, quhither the land is strenzeable or not.

10. And the overlord may distrenzie and poynd the land so lang as it is strenzeable, for his annuell rent, and all arrierages.

11. And gif the land is void and emptie, or waist, or not strenzeable; the Lord may persew for recovering of all the land and tenement, for not payment of the annuell rent.

12. *Item*, albeit the Lord may distrenzie, or poynd for his annuell rent, and for all arrierages: zit be the rigour of the law he is not oblitted to doe the same. Bot be the rigour of the law, the tennent should pay his zearlie dewtie, at the termes specified in his Chartour, and the tennent is perpetually oblitted to do that conforme to the tennour of his Chartour, quhither the land is waist, emptie, strenzeable or not strenzeable: Because the tennent should at ilk terme keip his land free, be payment of the zearlie dewtie, and burdening of annuell rent. *Luc. 6. parl. 15. c. 246.*

13. And albeit the overlord takes not vp his annuell rent, at the termes of payment, nor zit strenzies therefore; God forbid that he should fine his annuell rent therefore.

14. And suppose the tennent be malice, fraud, or otherwise, at the terme delays to make payment, or will not pay the annuell rent; God forbid, that the overlord shall be defrauded thereof. Because of the law, the Lord may haue ay action, and recourse to the lands, for not payment of the annuell rent.

15. Because the tennent is oblitted be his Chartour, to pay his zearlie dewtie at certaine termes. And gif he failzies, he hurts and prejudices himselfe, and not his Lord.

16. Because the overlord, be the law, may not, nor should not be defrauded of his annuell rent any maner of way.

17. And swa it is manifest, that gif the tennent compeir before the pronounciation of the sentence of the propertie, and

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payes the arrierages auchtand be him, he sall bruke and possesse his lands peaceable.

*ILK BVRGES SOULD HAVE ANE
land streinzeable.* CHAP. 137.

NA man sould bruke or injoy the fredome of ane Burges, bot gif within zeare and day, after his entres he haue ane land inhabit, and strenzeable.

*ANE BVRGAGE IS NOT ACQVI-
red without consent of the overlord.*

CHAP. 138.

ITem, ane fewfermer, may not make ane fermer, of any land; except he giue it vp (*and resigne*) to his overlord, and he sall make him Fermer. Because twa men at ane time, and baith together may not haue the fredome of ane burgage.

THE FREDOME OF BVRGESSES.

CHAP. 139.

ITem, it is statute be King *David*, that all his Burgeses sall be frie throw all his Realme, als well be land, as be sea, to sell and buy, for their awin profit and commoditie, without any trouble or perturbation; vnder ane full amerciament, because they are vnder his sure protection.

*ANENT ANE FAIRAND-MAN, OR
dustifute.* CHAP. 140.

ANe day being assigned to the parties be the law of Fairand-man, or Dustifut, for compeirance in court; gif the persewer is absent at the day, he sall be in ane amerciament, tine his clame and action; and the defender sall passe frie, and be essolized.

2. And gif the defender is absent, he sall be in ane amerciament, and the persewer sall recover his skaith, gif the samine was taxed and modified in the persewers clame, & ane pledge found therefore be the defender.

*THE PAIN OF NOT PAYING OF CV-
stome.* CHAP. 141.

GIf ane man buyes any thing, and passes be the place quhere he sould pay custome, and payes not the samin to the kings Baillie

Baillie, and is convict thereof: for ilk farthin, he fall tync five shillings; and for ilk halfe pennie, he fall tync ten shillings; and for ilk pennie, twentie shillings; and swa forth.

2. And the thing quhilk is boght, sal be escheit to the King; except he put the custome in the place quhere the custome vles to be payed, vnder the earth, or ane stane. And nevertheles, he fall pay ane vnlaw of aucht shillings.

*FRAVD COMMITTED IN PAYING
of Custome.* CHAP. 142.

GIf ane man passes to the Fair, with his awin Cattell, and re-^{Customes.} ceaues in his cumpany other mens Cattell, and payes na custome for them, as he does for his awin, and resortand to the place quhere sic custome vles to be payed (*as in ane medow*) avowes, & affirimes the said cattell to perteine to him, as his awin proper cattell does, and is convict heiranent; his bodie and all his cattell fall be in the Kings mercie: Because he is ane seducer and deceaver of the King.

*OF THEM QUHA ARE FRIE OF
Custome.* CHAP. 143.

EArles, Barons, Knights, and frieholders be Chartour, or for ferme induring their liffetime, and all quha hes lands, in name of almes, sould be quite and frie, fra paying of toll or custome within burghs. And also within Shirefdomes quhere they dwell, of sic things as are for their meate & claith, and to their proper vse; except some of them be common merchants. And in that case they sal pay custome, not hauand sic liberties as Barons hes.

THE



IN MY DEFENCE

GOD ME DEFEND.



THE
COVRT OF THE
FOVRE BURROVVES
EDINBURGH, STIRLING,
Berwick, and Roxburgh.

Leg. burg. c. 128.

OF LITHCOVV, AND LANARK.

CHAP. I.



IN THE PARLIAMENT
halden be King David, the secund
of that Name, at Perth the saxt day
of March 1348. It is statute and or-
dered be the thrie Estates of this
Realme, that swa lang as the burghs
of Berwick and Roxburgh, are de-
teined and halden be english men
(quhilks are, and sould be twa of our
four burghs, quha in auld time did hald
ane Chalmerlane Court, an is in the zeare at Hadinton, anent fallsing
of domes, quhilks were againe said, before the Chalmerlane in his
Chalmerlane airs) the burghs of Lanark and Lithcow, sall be re-
ceaved and admitted in their place.

2. And fra this time forth, they sall be advertised to compeir
(at Hadinton) and serue in the meane time.

3. Swa the Court to be halden, as said is (*be the Commissioners of Edinburgh, Stirling, Lithcow and Lanark*) in sa far as concernes common justice fall be als vailliable, as gif there were na impediment, or obstacle of the other twa Burghs, halden and occupied be english men.

4. Provyding, that quhen the other twa burghs returnes to the possession and the Kings hand, they fall bruke and enjoy their awin priviledge without delay, or contradiction.

DOMES OF BURGHES SOULD BE

falsified before the Chalmerlane.

CHAP. 2.

mod. ten. cur. c. 17

All judgement against said within the Burrow Court, sould be decreited and decided (*in the secund instance*) before the Chalmerlane, that is to say, thrie or foure, at the maist, discreit Burgettes, of ilk burgh, of *Edinburgh, Stirling, and Lanark*, hauand lawfull commiſſion, fall compeir personallie, before the Chalmerlane, at *Hadinton*, they being lawfullie summoned to that effect; and there the richt or the wrang of the dome, quhilk was againe said, be them salbe discuffed and determed.

2. And it is to witt, that sic ane Court quhere the foure Burrowes are assembled together, before the Chalmerlane to trye and discusse the dome, quhilk is againe said, is als vailliable amongst Burgettes, as gif it were finallie ended and done in Parliament.

ANENT BURGESSES VPON THE SOUTH.

side of the water of Spey.

CHAP. 3.

In the Court of the foure burghes halden at *Stirling* the twelft day of the moneth of October 1405. It is decreited that twa, or thrie sufficient Burgettes, of ilk ane of the Kings Burghs, vpon the south side of the water of *Spey*, hauand sufficient commiſſion compeir zearlie, to the conuention of the foure Burghes, to trait, ordaine, and determe vpon all things concerning the vtilitie of the common well, of all the Kings burghs, their liberties and Court.

2. *Item*, that na man of quhat estate he be may repledge his man, for foristallinge, fra the Court of the burgh, or the Chalmerlane air. Except them quha hes ane burgh neir adjacent to them,

The forme of

them, hauand priuiledge in auld times in sic causses.

Leg. burg. c. 53. c. 137. 3. *Item*, that na man fall bruke the libertie and fredome of the burgh, bot gif he haue ane land inhabit and streinzeable with in zeare and day after his entres.

Leg. burg. c. 59. 4. *Item*, na burges dwelland a landwart, sould haue lot, nor cavill with burgetles dwelland within burgh.

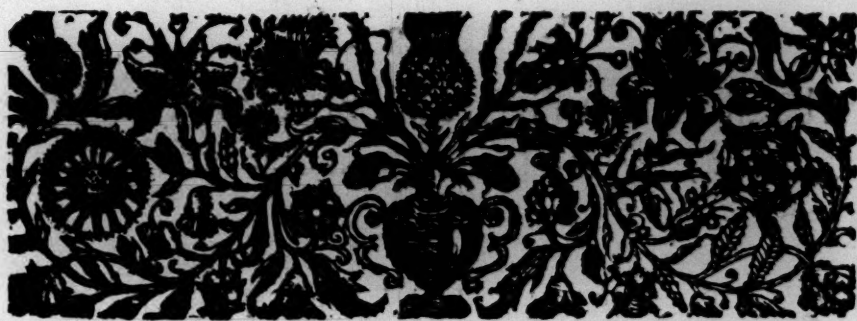
5. *Item*, na templair (*Reid Freir*, *keipers of the Temple of Ierusalem*, and of the halie graue) fall intromet with any merchandise, or gudes pertaining to the Gilde, bebuying, or selling, within or without their awin Land. Bot gif hee be ane Gilde brother.

Quon. Att. c. 81 6. *Item*, twa men of gude fame, qnha saw and heard, may proue any summe, exceiding fourtie shillinges, or within the famine: Observing alwaies, the forme prescryved in the Law, betwix Burges and Burges, quha may sweare be his awin eath, gif he hes na witnes.

7. *Item*, the Baillie may ilk day, except it be ane halie day, cognosce and correct the breakers of the assise of bread, aill, and flesh: and als the rebelles (*disobedient*) and perturbers within the burgh, als oft as necessitie requyres, and complaint is made.

IN





IN THE NAME OF THE HOLIE TRINITIE.

BEginnes the statutes of the Gild (societie of Merchands) made and constitute be Robert Durhame Mair of Berwick upon Twede, and Simon Martell, and other gude men, upon the daies of Wednesday, before the feast of S. Mark the evangelist. And upon the morne after S. Cuthberts day, in S. Nicolas Kirk, the zeare of God 1283. And upon Setterday next after the feast of the halie Trinitie: And upon Thursday, next after the feast of S. Andrew the Apostle: And upon Thursday, before the feast of Whitsunday, the zeare of Christ 1284. In the Kirk of the black Friers. To the end that many bodies conveined in ane place, may haue amongst them ane union, ane will, and ane firme and sincere loue, ilk ane till other.

ANE GENERALL GILD SOULD
be keiped. CHAP. I.



FORSAMEIKILL AS NA Of Gille mer-
particular congregation of Burges-
les, sould breake or violate in any chandises. *vid.*
chalmerlane air.
parte the liberties, or lawes of the *c. 214.*
generall Gilde, or to conceaue new *Stat. with. c. 36.*
devyses or counselles against the *lac. 6. parl. 13.*
famine. *c. 180.*

2. First it is statute, that all particular Gildes and societies, halden & keiped within our burgh hitherto fall be discharged and abrogat. And that all cattell (or moveable gudes) awand to them, be law and reason, fall be exhibit, and pertaine to this Gild. And that they presume not to keip and obserue any other Gild, bot this, within the burgh. Bot that respect being

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being had be all the members to ane head; ane counsell, ane sure friendlie societie, may be keiped and observed in all their actes, and doinges.

VNLAWES PERTEINING TO THE GILD.

CHAP. 2.

WE statute that all vnlawes exceiding aucht shillings (*except anent the Kings custumes, and sic as pertienes to the richt and common libertie of the Provest and Baillies*) fall pertain to this Gild.

LEGACIE TO BE LEFT TO THE

Gilde.

CHAP. 3.

WE statute, that the brether of this Gild, fall leaue some legacie to this Gild, in any parte of their testament, as they please, of the partie of their gudes and geir pertain to them. Except be great negligence, they premit to do the samine.

THEY ARE RECEAVED IN THE GILD,

quha leaues legacie to the samine.

CHAP. 4.

GIf ane man, quha is nocht ane brother of this Gilde, vpon his dead bed leaues in legacie, any part of his gudes to this Gild: we receave him as ane of our brether, in sa far as concernes the craving and persewing of his debts, and in all other his necessities, as gif he were trewlie ane of our brether, and fall giue our counsell and help to him.

THE PAIN OF ANE BROTHER

quha be word does wrang to ane other brother.

CHAP. 5.

WE statute, that gif any of our brether does wrang or injurie be word to ane other brother, quhilk is worthie to be corrected, in comming to the Gild (*Gild-house*) in remaining there, or returning therefra; anis, twise, thrise, he fall pay ane mends to the Gild of fourtie pennies.

2. And gif he faill, or commit ane fault, be word or deid, he fall be condemned and punished at the will and arbitrie of the Alderman, Thesaurer, Deane, and other brether of the Gild; and conforme to their decreit, fall make ane mends to him quha is hurt and injured.

REALL

REALL INIVRIE DONE TO THE
brether of the Gild. CHAP. 6.

Item, gif any of our brether straikes ane other brother with his fist or neif; he sall pay to the Gild sax shillinges aucht pennies.

2. And at the consideration of the Alderman, Thesaurer, Dean, and of other brether, sall make ane competent mends to him quha is hurt.

3. And gif any of our brether drawes violentlie ane other brothers blude, he sall pay ane mends of twentie shillinges, and sall satisfie him quha is hurt, at the will and arbitrie of the Alderman, Thesaurer, Dean, and of other brether of the Gild, after the quantitie of the cryme. And na parte of these mends sal be remitted or discharged, be prayer or be request.

4. We statute alwa, that na man quha is given to tuilzies or strife, sall presume to beare ane knife with ane poynt, within the Portes, or dures of our Gild; quhilk gif he does, he sall pay to the Gild twelue pennies.

5. Item, gif any violentlie drawes blude, or mutilates ane other with ane batton, or with other armes of iron, he sall be condemned at the will and arbitrie of the Alderman, Thesaurer, Dean, and of other brether.

OF THEM QUHA PISCHIS AT THE
wall of the Gild house. CHAP. 7.

Gif any man pisches, or makes water within the Porte of the Gildhouse, or vpon the walles thereof, induring the time that the Gild is sittand, sall pay to the Gild foure pennies.

THE PRICE OF THEM QUHA SAL
be receaved in the Gild. CHAP. 8.

WE statute, that na man sall be receaved in the confraternitie of this Gild, for na lesse summe then fourtie shillinges; except they be Gild sonnes, and Gild dochters.

THE RELIEF OF GILD BROTHER.
CHAP. 9.

Gif any brother of our Gild, falles in auld and decreped age, in povertie, or incurable sicknesse, and hes not gudes and

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geir of his awin, to susteine himselfe, he sall be releived and helped, at the sight of the Alderman, the Dean, and of other brether as the gudes of the Gild may be sufficient thereto.

THE RELEIF OF GILD DOCH- ters. CHAP. 10.

GIf any of our Gild brether, leaues ane dochter lawfullie gotten, after his deceis of gude conversation, and of gude fame, and hes not sufficient gudes to provyde her of ane husband, or is willing to liue chastlie in ane Religious house, conforme to the will and disposition of the Alderman, Dean, and of other brether, and the gudes pertaining to the Gild, provision sall be made to her of ane husband, or of ane Religious house.

OF HELP IN BVRIALL.

CHAP. 11.

GIf ane Gild brother deceisles, and hes not in proper gudes to his buriall; the brether of the Gild sall cause him to be honestlie buried vpon the expenses of the Gild.

RELEIF OF BRETHER TROVBLIT for ane cryme. CHAP. 12.

GIf ane or mae of our brether is vexed and troubled without our burgh, anent their life or limme; twa or thrie gude men of the Gilde sall travell with him for twa dyets, and remaine with him vpon the expenses of the Gilde. Bot gif they byde with him mae dyets nor twa, he sall bring them, and send them haim againe vpon his proper expenses. And farther they may tarie with him vpon his expenses gif it is necessarie to doe swa. And gif he is justlie troubled, he sall cause the brether resort to him vpon his expenses, and according to the arbitrie of the Alderman, and of the brether, he sall be condemned.

OF HIM *QUHA* CONTEMS THE GILD.

CHAP. 13.

WE statute als wa, that gif any of our Burgesles, stubburnlie contemnes this Gild, or confraternitie; nane of our brether,

ther, fall giue to him counsell or helpe, within burgh or without burgh, be word or deed, albeit he be in danger of his life or lim, or in any other warldlie perill.

THE PAIN E OF HIM *QVHA* COMES

not to the Gild.

CHAP. 14.

WE statute, that quhen the Alderman, Thesaurer, & Dean, willes to conuene the Gild brether, for to treate vpon the effaires of the Gild; all the Gild brether fall conuene, and compeir after they heare the striak of the sweich (or the found of the trumpet.)

LIPPER MEN.

CHAP. 15.

NA Lipper men fall enter within the Portes of our burgh: And gif any be chance enters within them, he fall be incontinent put forth be the Serjant of the burgh. And gif any lipper man vles commonlie contrair this our discharge, to come within our burgh; his claiths quherewith he is cled, fall be taken fra him, and fall be brunt; and he being naked, fall be eiected forth of the burgh. Because it is provyded be the common Councell, that some gude man fall gather almes to them, that they may be susteined in ane place competent for them without the burgh. And this is to be vnderstand of lipper folk, indwellers within the burgh and not of them quha dwelles without the burgh.

Leg. burg. c. 64.

Iac. 1. parl. 7. c.

105.

Levit. c. 13. 1.

Numer. c. 5. 1.

Deutr. c. 24. 8.

THE PLACE *QVHAIR* DVNG SOULD

be laid.

CHAP. 16.

IT is not lesome to any man to lay dung or dirt, within certaine limite marches and meirhes, vpon the banke of the water of Tweede, nor na other thing quhilk is full of dust, or poulder, to the hurt or skaith of them quha dwelles thereabout. Gif any man does in the contrair, he fall pay aucht shillinges.

SILENCE WITHIN THE COVRT

of the Gild.

CHAP. 17.

NA man fall speik in pleyes, or concerning the cause, bot onely the persewer, the defender, their Advocats, and the

Bb 2

Judge,

Statutes of

Judge, quahaldes the Court : And that for inquisition and tri-
ell of the cause. Bot the persewer and the defender may call v-
pon any man indifferentlie to aske his counsell. And gif any man
does otherwise, he fall pay aucht shillings.

THE GILD BRETHRE SOULD haue horse. CHAP. 18.

All Burgesses hau and fourtie pounds in moveable gudes, fall
haue ane horse standand in his stabill, of the price of twen-
tie shillings. And gif he wants, or is deprived of his horse, be
death, be selling, donation, or any other case; he fall purches and
acquyre ane other horse within fourtie dayes, after he wanted his
first horse. And gif he failzies heiranent, he fall pay aucht shil-
ling sterling money.

OF HAND MILNIS.

CHAP. 19.

NA man fall presume to grind quheit, maischloch, or rye,
with hand mylnes; except he be compelled be storme and
tempest of wether, or be in laik of mylnes, quhilk sould grind the
samine. And in this case, gif any man grindes at hand mylnes,
he fall giue the thretein measure as multer. And gif any
man contraveins this our prohibition, he fall fine his hand myl-
nes perpetuallie; and fall grind his cornes at mylnes payand the
twentie foure measure.

BYTING OF VVOOLL, HYDES, AND skinnes. CHAP. 20.

Leg. burg. c. 59. **I**tem, na man fall buy wooll, hydes, nor wollen skinnes, to sell
the samine againe, or fall cut claith, bot he quhais ane bro-
ther of our Gild. Except he be ane stranger merchand, for the
susteining of his office, quha fall not haue lott, nor cavell, with a-
ny of our brether.

NA GILD-BROTHER SALL GIVE HIS MO- ney to ane stranger merchand. CHAP. 21.

Gif any of our brether gives silver to any stranger, to the
vse of merchandice, and takes therefore certaine profite,
of

of the seck of Wooll, the last of Hydes, of Skinnes, or any other merchandice, he fall be condemned in fourtie shillings, anis, twyse, thrise: And gif he be convict thereof the fourt time, he fall tine the Gild. In the samine maner, ane Gild brother fall be punished, gif he takes silver of ane stranger merchand, to vse merchandice, in maner foresaid.

MERCHANDICES BROCHT IN THE
shippes. CHAP 22.

Item, na man fall buy herring, or any fish, quhilk is brocht in be shippe to the towne, before the ship ly on dry land, and put forth ane aer. Nor na other sort of merchandice, sic as victuall, beanes or salt. Gif any man is convict heirof, he fall giue to the Gilde ane punscheon of wyne for his trespassse: Or he fall be banished forth of the towne, be the space of ane zeare, and ane day.

2. *Item*, gif any man buyes Hering, Salt, Victuall, Beanes, Fishe, or any other like merchandices, he fall not deny ane parte thereof to his neighbour, sa meikill as he will buy to his meate: that is, for sustentation of his house, for the samine pryce, the quhilk he gaue for them: Otherwayes, he fall pay ane punscheon of wyne.

3. Bot gif any man buyes mair nor for his meate, and sellës the samine againe, he fall be punished in the samine maner. Because he alledged that he bocht for his meate, and for that cause he socht and obteneid ane parte. Alwaies, the fourt part of the merchandices, sould remaine with the first buyer; and quhen they are delyvered vnto him, he sould pay therefore within the shipburde.

4. *Item*, gif any man buyes Hering, or other merchandices, and hes given Gods pennie, or silver in arles; he fall pay the merchand, fra quhom he bocht the said merchandices, conforme to the price aggried of before the giving of the arles. Quhilk gif he does not, and is convict thereof, he fall pay ane punscheon of wyne for his fault, without any mercie, to be applyed to the vse of the Gild, or else he fall be banished forth of the towne for ane zeare and ane day.

Statutes of

OF FALS MERCHANDISIS.

CHAP. 23.

Item, gif it happins that ane man buy any merchand gudes, Iquhilk aboue is gude, and vnder is evill; incontinent that sculd be mended and corrected be the sight of honest men, deput to that effect.

THE PRICE OF MVTON.

CHAP. 24.

WE statute, that na flesher in time comming, sel the carkasse of muton, fra Pasch vntill Whitsonday, within this burgh of *Berwick*, dearer nor saxtene pennies. And fra the feast of whitsonday, to the feast of *S. James*, dearer then twelue pennies: And fra the feast of *S. James* to Michaelmes, dearer then ten pennies: And fra Michaelmes to Pasch, dearer nor aucht pennies. And gif he fall be convict to haue broken this ordinance, he fall pay ane vnlaw of aucht shillings.

FLESHERS BEING MERCHANTS.

CHAP. 25.

IT is statute, that na flesher sa lang as he exercies and vses his office, fall buy wooll, or hydes; except he forswear his ax, and that he fall not with his hand slay any beast.

OF BROVVSTERS.

CHAP. 26.

IT is statute, that na woman sel the gallon of aill fra Pasch vntil Michaelmes, dearer nor twa pennies. And fra Michaelmes, vntill Pasch, dearer nor ane pennie. And without delay, their names fall be noted be the common councill.

OF BROKERS.

CHAP. 27.

WE statute that brokers fall be chosen be the communitie of the towne; and that they fall pay ane punscheon of wine to the towne zearlie without delay, at Michaelmes. And without delay their names fall be noted be the common councill.

OF

OF HUKSTER, OR REGRATERS.

CHAP. 28.

NA huksters fall buy fish, hay, aites, cheis, butter, or any other thing that is brocht to the market to be sauld, befor the ringing of the bell in the stepill. And gif any person contravine this our prohibition, the gudes quhilks are bocht, fall be distribut and given to the pure folke, be consideration of the Baillies. *Leg. burg. c. 73.*

FORISTALLARS OF THE MARKET.

CHAP. 29.

WE statute, that na person in time comming, buy any gudes quhilks are brocht to the burgh, to be sauld, before they come and be brocht to the market place of the burgh: And gif any is convict heiranent, he fall tene the thing quhilk he hes bocht, and the samine fall be applied to the profit of our Gild.

BYTERS OF WOOLL AND HYDES.

CHAP. 30.

ITem, na married woman fall buy wooll in the wynd (or *vinellis*) of the burgh. And na burges fall haue bot ane servant aillanerlie, to buy wooll and hides: And gif any person vnreasonably buy wooll, or hydes, without the place ordained thereto within the towne (*without the wooll market*) the said wooll and hydes fall be converted to the vie of the Gilde. And the man, or servant, fall pay ane vnlaw of aucht shillings, and his gudes fall be confiscat for his fault.

NA MAN SALL DESIRE ANE LAND-
wart man to assist him in any pley against his neighbour.

CHAP. 31.

ITem, nane of our Burgeses fall requiest, or procure ane landward man (*dwelling without the Burgh*) remainand without our libertie, to pley for him, against any of his neighbours, vnder ane full vnlaw, of ane punscheon of wyne.

CON-

Statutes of

CONSPIRATORS AGAINST THE GILD CHAP. 32.

WE statute, that na man make any conspiracie against the Gild alreadie established, to separat or to divide it. And gif any man is convict hereof, he fall pay ane vnlaw of ane puncheon of wine.

THE GOVERNMENT OF THE COMMUNITIE. CHAP. 33.

WE statute, that the common councell, and communitie fall be governed, betwentie foure gude men, best, maist discreit, and maist faithfull within the burgh, chosen to that effect, together with the Mair and foure Baillies. And quhen the twentie foure men sal be called to treat, or advise vpon any common turne, or affaires of Gild; gif any ane of them being summoned, compeires not, he fall make ane mends of twa shillings

THE ELECTION OF THE MAIR and Baillies. CHAP. 34.

WE statute, that the Mair and Baillies, fall be chosen be the sicht and consideration of the communitie. And gif any controversie fall happen to be anent their election; in that case, the election fall be made be the eath of twentie foure men of the burgh, elected and chosen be the communitie.

ANENT THE REVEILING OF the Councell. CHAP. 35.

MAirover, we statute, gif any Burges presumes to reveill or shaw the secrets of the Councell of our Gilde, contrait to the eath made be him; for the first time he fall be punished at the consideration of the Mair, and other worthie men of our Gild. For the secund fault, he fall tine and lose the libertie of our burgh, for zeare and day. And gif he the thrid time is convict, he fall tine and amitt the libertie of the burgh induring his lifetime.

2. And mairover, because he is infamous, be the law he fall not bruke nor vse the libertie (of ane burges) within our burgh, nor in na other burgh within this Realme.

OF

OF GLVIF MAKERS AND SKINNERS.

CHAP. 36.

IT is statute, that na Skinner nor Gluifmaker, or any other burges, fall make wooll of skinnes, from the feast of Whitsonday, vntill Michaelmes; bot he fall sell the skinnes as they are (*with the wooll*) the best way he may: And gif any of them is convict heirof, he fall pay to the Gild ane punscheon of wine.

THE DIVISION OF BOCHT HERING

amongst the Gild brether.

CHAP. 37.

Item, gif ane burges buy hering, all his neighbours quha fall be present the time of the buying, fall haue ane parte thereof, for the samine price quhilk he gaue, without all fraud or gyle. And gif any man quha was not present at the time of the buying wald haue ane parte, he fall giue to the buyer twelue pennies as profit. And gif any man is convict in the contrair, he fall giue ane punscheon of wyne to the Gild. And this is to be vnderstand of the brether of the Gild. *lac. 6. par. 4. c. 60.*

THE CARIAGE OF VVYNE.

CHAP. 38.

Item, it is statute, that ilk Burges fall giue full cariage for ilk punscheon of wyne quhilk he layes into his taverne, and that he puttes within shippe. And for removing or carying of ane punscheon from ane cellar to ane other, he fall giue twa pennies, and ane halfe pennie; that is, ane pennie to the burgh; and ane pennie and halfe ane pennie, for the drinking of it within the taverne. And for ilk punscheon taken be him to his awin drink, he fall giue ane pennie.

OF BREVVERS BVTAND AITS.

CHAP. 39.

Item, na person fall buy aittes in the market to make beare of them to be sauld, mair nor ane chalder; and gif she buyes mair, she fall tane all that she buyes: quhereof the thrid part fall perteine to the keipers (*of the burgh*) and twa parts to the Baillies, to be browen in their awin houles.

THE

Statutes of

THE TIME OF BYTING OF BEASTS.

CHAP. 40.

Item, na flesher fra Michichaelmes, vntill the Nativitie of our Lord, sould patle forth of the towne, to meit the beastes com- and to the market to be fauld, nor fall not buy beastes any day in the market before twelue houres, within the said time; nor fall not cause nor procure fraudfullie any beastes to be keiped vntill twelue houres. Gif any does in the contrair, he fall be deposed and suspended fra his office for zeare and day.

BYTING OF BARKIT HYDES.

CHAP. 41.

Item, na stranger bringing barkit hides to be fauld, fall sell them within the house, bot in the common market, and allanerlie vpon the market day. And suppose the hydes be cutted in peeces, the seller thereof fall pay the custume.

Molendina.

OF MYLNES.

CHAP. 42.

IT is statute, that na man fall haue bot twa pair of mylnes, and he quha hes mae, fall be depryved thereof, for ane zeare and ane day.

OF LOT AND CAVIL.

CHAP. 43.

Leg. burg. c. 59.

Item, na brother of our Gild fall haue lot nor cavill with ane o- ther, in les nor in halfe ane quarter of skinnes, or in halfe ane daker of hydes, or in twa stanes of wooll.

OF MERCHANDICE BROCHT IN

be shippes.

CHAP. 44.

Item, it is statute, that na man fall buy any kinde of victuall, beanes, peise, salt, coales, or other thing sellable, comand to burgh be the sea, except at ship burde; nor fall not losse, or cary forth the gudes bocht be him, before the Sunne rysing; bot the portage thereof fall be betwix the rising of the Sunne and downe setting of the samine. And he quha does in the contrair, fall giue ane punschcon of wyne to the Gild brether.

THE

THE VNLAUVES OF STRANGER
merchandises. CHAP. 45.

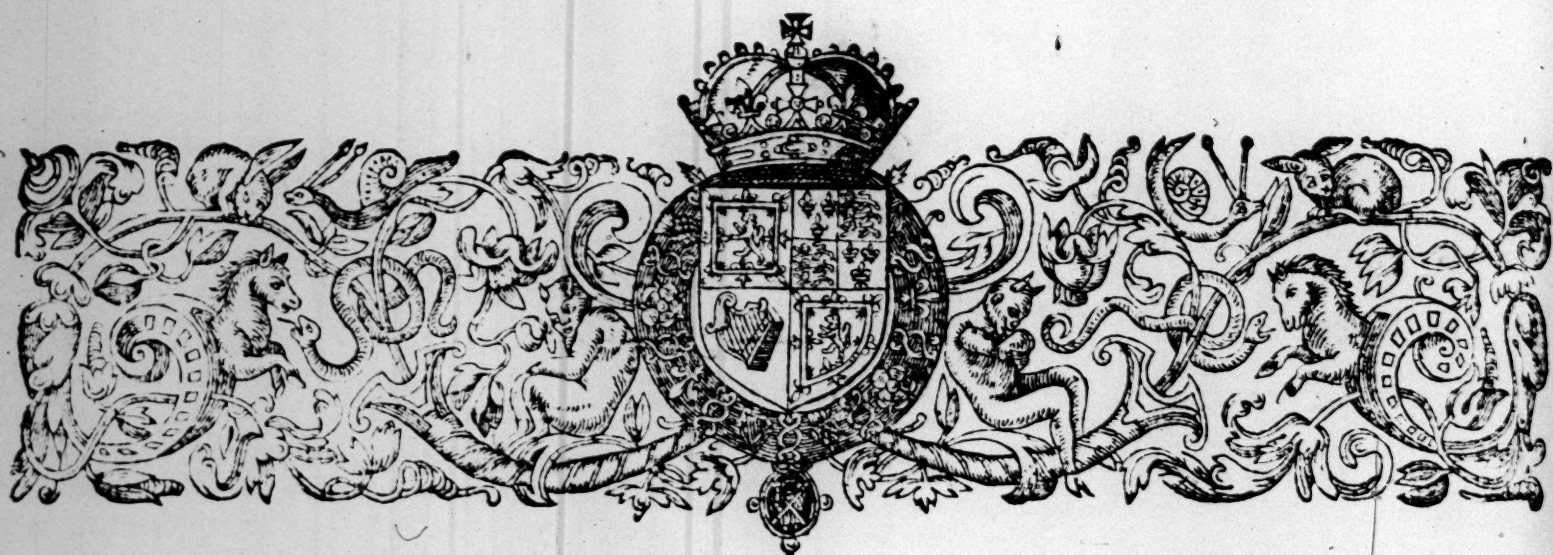
I Tem, all vnlawes taken from stranger merchands sould pertain to the brether of the Gild, and to the Burgettes of the towne; except sic quhilk perteines to the King.

LANDVART MEN MAY NOT BUY NOR
sell, bot vpon the market day. CHAP. 46.

I Tem, na Burges, nor brother of our Gild, dwelland a landwart, fall presume to buy or sell within the burgh, any merchandises pertaining to our Gild, bot allanerlie vpon the market day. And that na landwart man buy any vi&tuall, brocht to our burgh be ship. And gif he does in the contrair, and is conuict thereof, he fall pay to our Gild, ane punscheon of wyne.

THE





THE CHALMER. LANE AIR.

THE PRECEPT OF THE CHALMER-
lane Air. CHAP. I.

Stat. with. c. 35.



CHALMERLANE OF
Scotland, to the Provest and Baillies
of the Burgh of Edinburgh, greating:
Because, gif God please, we intend to
begin to hald our Justice air in zeur
burgh, vpon Mononday, the penult
day of November next to come, with
continuation of dayes. Therefore we
command and charge zow, that ze
cause summon, and certifie all and
fundrie zour comburgelles, dwelling within zeur burgh, or
without the samine, that they sal compeir before vs, or our deputs
ane or mae, the saids day and place, with continuation of dayes,
to heare, treat, vnderly, fulfill, and determine, al things quibills
suld be heard, traitit, vnderlyn, fulfilled, and determed in the said
air, conforme to the lawes and consuetude of burghs Also ze sall
advertise and certifie all and fundrie Baillies, Serjants, Baxters,
Frowsters, Brewers, Fleshers, appryzers of flesh, Taisters of aill,
Taverners of wyne, Custumers of the great, and of the small cu-
stomes, Custumers of the Trone, keipers of the Jagis (gauges)
Fishers

Fishers of Salmon, and of quhite fishe, Millers, and all other officers that hes intrometted or vfed any office within the said burgh, since our last Chalmerlan air, to answer there before vs, or our deputes ane or mae, the saids day and place, with the said continuation of dayes, to sic thinges as fall be laid to their charge, and to doe thereanent, as law will. And ze fall haue there at the tyme foresaid, all the names foresaid: And also all the names of the soytors of the Court, of the said burgh; and the names of all the brether of the Gild, and of all them quha halde buithes of merchandices, als well dwelland within burgh, or without the samine.

And the names of all them quha halde swyne in the towne, without custodie prescryved in the lawes, all in ane roll sufficientlie and distinctlie written.

Ye fall als wa advertise all warkmen, that they fall present there all their measures, wechts, ballances, ellnes, and all and sundrie their instrumentes, quhilks they vse or hes vfed in their buiths, with the name of him quha is warke the instrument is, distinctlie written. And make publick proclamation, that all they quha in our said air, before vs, will persew or defend, in forme of law, in any cause (*pledges being taken be zow, baith for the persute and defence*) that they compeir to persew, and to defend their pleyes and actions, as effeires of law.

And ze fall cause deliver in writ vnder zour seales to the Schirreff, or his Deputes of *A.* all the names of the forestallers dwelland without the burgh, quha forestalles the said burgh, be buying and selling the names of all them quha committes purpresture within the Kings propriete or communitie, within burgh, or without the samine any maner of way, to compeir before vs, or our deputes, ane or mae, the saids day and place, with continuation of dayes; to answer to sic thinges as fall be laid to their charge, conforme to the law.

And ze also Proveest and Baillies, fall be there present before vs, the saides day and place, with continuation to answer to sic thinges as fall be laid to zour charge, and to answer as law will, in the premisses; and fall bring with zow, the testimonie of zour summons, premonition, and attachment, and this brieve. And this ze fall not leaue vndone, vnder sic paine, as may be competent be the law.

Chalmerlan Air.

THE PRECEPT TO ATTACH LAND- ward Burgesſes. CHAP. 2.

N. Chalmerlan of *Scotland* to the Schiref and his deputes, of *A.* greating; we command and charge zow, that incontinent, & without delay, ze ſummon & attach all Burgeſſes dwelland a landwart, quhaſ names the Baillies of the burgh of *E.* ſal preſent to zow in writ; and ſal cauſe them finde to zow ſaif and ſure pledges, that they ſall compeir before vs, or our deputs, ane or mae, at *E.* vpon Mononday the penult day of the moneth of November next to come, with continuation of dayes, to anſwer to ſic things as ſall be laid to their charge, and to anſwere as law will. And ze Schiref and zour deputes ſall be there, before vs or our deputes, the ſaids day, and place, with continuation of dayes, bringand with zow ane teſtimonie of zour attachment, and this breive: And this ze ſaill not to doe.

THE FORME OF THE HALDING of the Chalmerlan air. CHAP. 3.

Firſt, before the Chalmerlane and his deputes ſall compeir all Burgeſſes, dwelland within the burgh, as without the ſamin; quha ſall be called be their awin names, and the abſentes ſall be vnlawed.

2. Bot the Court ſall be affirmed, and the ſoytes called, before any thing be done.

3. Thē ſal be called the Baillies, & ſerjants of the preſent zeare, and of the zeare bygane; for they ſould be challanged and accuſed fra the time of the laſt air, vntill the time of the new Baillies.

4. Thereafter ane aſſiſe ſall be choſen vpon the Articies of the Chalmerlan air.

5. *Item*, it ſall be inquyred, gif the Baillies hes ane commiſſion or not, and be quhat lawes they alledge the Kings burgh to be governed.

6. *Item*, heirafter all complaints ſall be called, and therevpon ſal be choſen ane aſſiſe, na way ſuſpect, of the beſt and maiſt wor-
thie of the burgh.

7. *Item*, the retour, or the anſwere ſall be turned to the Chalmerlans precept, within the finding of the pledges, anent the obeying & fulfilling of his precept in all things ſall be requyred.

8. *Item*,

8. *Item*, sall be dysyred and called for the Rentall of the burgh, conteinand all the fermes and dewties of the Rudes of lands, quhilk are taken vp, or sould be taken vp, of lands, allwell inhabite as lyand wait.

9. *Item*, sall be desyred, all the names of the Burgeses, in writ, dwelland within the burgh, or without the samine; that is, the names of the Gild brether be themselves severallie; and the names of other burgeses be themselves.

10. *Item*, sall be desired, the roll of the soytours of the Court, allwell dwelland within the burgh, as without; and of the wait lands, as of the lands inhabit.

11. Last of all, the summons sall be called, with the attachments, and sall be verified lawfullie.

THE FORME TO CHALLENGE
the Baillies. CHAP. 4.

First, they doe not justice, and are not reddie at all tymes quhen they are required, conforme to the forme of the eath made be them quhen they were made and constitute Baillies.

2. They doe not justice equallie, to the pure and the ritch.

3. They doe not justice, be reason of favour, haitreat, or loue of men.

4. They take buds, & gifts for doing or not doing of Justice.

5. They sell bread and aill contrare the lawes of the burghs.

6. They giue saising heretablie, or for ane lang time of ane Burgage sauld within burgh, before it be offered in judgement, to the narrest kinsman of him quha analies it.

7. They giue saising withing burgh of lands, against the defenses of the partie adversare.

8. They search not the burgh lawfullie for casting forth of lipper men.

9. They keip not, nor causes to be keiped, the assise (*lawes*) anent the bread, wyne, aill and fleshe.

10. They doe not justice vpon them quha breakes the assise, sa oft as the law requyres.

11. They make not examination ilk oulk, or ilk fiftene dayes, anent bread, wyne, aill, fleshe, and other thinges, quhilk sould be examinat within burgh.

12. They are parties (*partial*) in Court (*and judgement*) quhere

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be justice is not done, or els it is staied langer then it sould be.

13. They execut not lawfullie the command of the King, or of the Chalmerlan, direct to them.

14. They raise stents & taxations vnlawfullie without counsell of the communitie of the burgh.

15. They selle and giues the liberties of the burghs to strangers, that they may buy and sell with Burgesses, and vse the rest of the commodities and liberties of the burgh.

16. They cause not the burgh to be walked nichtlie, be sufficient watch men, as they sould doe; swa that the neighbours are hurt and damnified, be reason of insufficient watch men.

17. They cause the pure, and not the ritch to watch.

18. They accept complaints, and determes them; notwithstanding that the allife is dependand thereaneat.

CHALLENGE OF SERIANTS OR bedelles. CHAP. 5.

THereafter the Serjants, or bedelles sall be called, and accused, quha fra the last Chalmerlan Air, hes served within burgh:

2. That they present not faithfullie all pledges found in their hands, to the Baillies in their session, nor to the Chamerlan in his session or Court.

3. They present not all distresses (*poyndes*) to the Baillies pertaining to them, be reason of defaultes (*committed be parties*) as they sould doe their offices.

4. They warne not the rich men, als wel as the pure to watch.

5. In taking pryfes and burdinges necellare for the Kings vse, they doe not richtlie to the Justitiar, nor to the Chalmerlane; bot they spare their friendes, and wel willers; and vexes and burdings others of the burgh.

6. In making payment of sic thinges, they deteine mair in their hands, and payes not sa meikill as they receaved, and convertes the samine be the rigour of their office, to their awin profit, and to the hurt of the communitie.

7. They take not all kynde of bread and aill, to be examinat, as they are commanded; bot for profite, they take fra some, and spares others, quherethrow the allife may not be faithfullie keiped.

THE

THE CHALLENGE OF THE TAIL-
sters of aill

CHAP. 6.

THe taisters of aill sall be challenged first, that quhen ane sign or token is put forth, they are not reddie, to taist the aill.

2. They are not reddie to taist or gusse the aill, sa oft as the browsters hestunned it.

3. They fill their bellies (*they drink overmeikill*) in the time of the taisting, swa that they tine and losse the discretion of gussing or taisting.

4. They enter within the house, quhereas they sould stand without in the middes of the streit, before the dure, and sould send ane of their company in the house, with ane Serjant; quha sall cheis the pot, quhereof he will taist, as please him, and thereof sall offer to his companions, to be taisted be them, and decerned according to the law made thereanent.

5. They present not to the Baillies the faultes anent the taisting of the aill at their next Court.

6. They put not ane assise (*ane pryce*) vpon the aill, bot sim-
plie sayes, that it is gude or evill.

APPRYSERS OF FLESH.

CHAP. 7.

APprysers of flesh sould be challenged and accused.

2. That they are not reddie at all times, to appryse the flesh after that the signe is put out, alswell for the profite of the fleshers, as of the people.

3. They seik not (*nor speires*) quhat is the Kings price, ilk day of the market, and the maner of buying of beastes, quhilk may be eaten; that is, Oxen, Mutton, Swyne, and that they be their awin discretion settes ane pryce therevpon, as the market gangs; and receaves nor admittes not the eath of the fleshers, in that mater.

4. For gifts, praier, or pryce, they favourablie settes ane price vpon the flesh, to the hurt of the Kings people.

5. They set not ane pryce vpon the flesh, sa oft as they are requyred.

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OF FLESHERS.

CHAP. 8.

Fleshers sall be challenged, first that they sell not the fleshe according to the alyfe of the gudemen of the towne.

1. They sell the flesh before ane price is set vpon it.

3. They sell for ane greater price then was set vpon it.

4. They buy and slayes beastes in time of nicht, contrair the lawes of the burgh.

5. They forestall the Burgesles and the burgh, be buying beastes in the Countrey.

6. They sell flesh without ane signe, or before the signe is put forth.

7. They sell gude fleshe to strangers, and evill fleshe to their neighbours; and contrariwaies.

8. They deny or hydes the pryce to any man speirand the pryce.

9. They sell fleshe in places covered, or in secret places, the window being closed, and not openlie in the window, or vpon the stockes or burdes.

10. They lay ane lardnar in great, and selles in their buiths be pcces, contrair the lawes and statutes of Burrowes.

BAKSTERS

CHAP. 9.

Baksters sould be challenged that they hald in their Ovenes bmae servants then the law will permit, quhere as be the law they sould haue bot foure persons, ane maister, twa servants, and ane knaue.

2. Quheras be the law they sould take at ilk time (*at ilk batch*) for the maister ane pennie; for the twa servants, ane pennie; and for the knaue, ane quadrant (*ane farthing*) in this case, for their debt, they take mair nor they sould, at their awin will.

3. They make not breid agreand to the money, bread for ane pennie, bread for ane halfe pennie, and bread for ane farthing.

4. They make not all kindes of bread, as law requyres; that is ane fage, tymmell, wastell, pure cleane breade, mixed breade, and bread of trayt.

5. They keip not, bot makes lesse the wecht given to them be the Baillies.

BROVI-

BROWSTERS. CHAP. 10.

BRowsters sould be challenged, that they keip not the price in selling of the aill, the quhilk is set downe vpon it, and according to the pryce of the malt.

2. They cause not the aill to be taisted, or to be tunned before they sell it.

3. They set not forth ane signe to certifie the taisters, as they sould doe.

4. They sell the aill before it be gusted, or ane signe set forth.

5. They haue not the measures, that is, quart, pynt, thrid part, & other partes, aggreand to the kings money; be the quhilk measures, the peopill may be served quhen they want.

6. Suppole they haue the measures, they refuse to sell in smal measures, bot selles in great, as the haill pot stands.

7. After the aill is anistasted, they tun it over againe.

8. The pot quhilk they haue, conteines not the just measure of the Kings gallon in cleane aill, without barme or dregges; quhereas be the law it sould contain the Kings gallon in cleane and cleare aill, without barme or dregges.

9. They vse their office after that they are discharged, conforme to the law; and being conuict, sould abjure and sweare to abstain fra their office, be the space of ane zeare and ane day.

MYLLERS. CHAP. 11.

MYllers sould be challenged and accused, that they hald mae servants in the mylne, then is permitted to them be the Burgettes, to the great hurt of the King and the people.

2. They keip not to ilk man his roume in the mylne, as they sould doe; bot for profite suffers ane to occupy ane other mans rowme and place.

3. They malitiousslie occupyes ane greater space betwix the happer and the mylne, for their awin profite; for the law permits there, na mair space nor ane sommer wand of ane hasel trie.

4. They take the fry, or smolts of Salmon in the myln dame or lead, contrair the ordinance of the law.

5. They vse twa kindes of measures, ane mair and ane lesse.

6. They take mair fra them quhaes cornes they grind, nor they sould doe of the law, or conswetude.

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CVSTVMERS OF THE LITILL CVSTVM.

CHAP. 12.

CVstomers of the litill custum (*that is, of gudes cumand to the market*) sould be challenged, that they take mair largely custome, then is granted or permitted to them, be the King, and contrare to the forme conteined in the lawes, conteining the customes in writ.

2. They take ane greater custome, then they sould be the law to the great hurt or skaith of the King.

CVSTVMERS OF THE GREAT CVSTVM.

CHAP. 13.

CVstomers of the great custum (*that is, of gudes exported forth of the Realme, or imported within the samine*) sould be challenged that they take not the eath of ilk man, quha presents to them the quantitie of his gudes, conforme to the quhilk custume sould be taken; bot takes fra some men, and favourable spares others.

2. Quhere they haue ane doubt, that the presentation of the gudes, quhilk sould be custumed, is not sufficient; they search not further for the Kings profit, either be quiet and secret demanding and speiring of the people; as be putting to their hands to weigh the seckes, bot suffers sic thinges to passe by, to the Kings great damage; nor they search not the shippes, for wooll, or gudes not custumed, or not brocht to the Trone, nor evell weighed at the Trone.

3. After they haue receaved command fra the King, or the Chalmerlan, to pay summes of money (*to sundrie persons*) they make payment to some men, for profite, and makes not payment to others.

GAVGIERS,

CHAP. 14.

Edward. 3. An.
31. c. 5.

Rich. 2. An. 3. c. 4.

An. 4. c. 1.

Hen. 6. An. 6. c. 16

Eliz. An. 31. c. 8.

G Augiers keepers of the just gauge, of mettes and measures) sould be challenged that they take vp their fie, and does not their office, in sic thinges as pertienes thereto. Because they sould put ane signe and marke of their office vpon the cleath, the bread, barrelles, or punscheons; quhilk they doe not, quhereby all buyers

ers, are meikil damnified becaus it is not knawen to them gif they haue that quhilk they sould haue be the law.

TRONARS.

CHAP. 15.

TRonars sould be challenged, that they keip not their office in troning (*weighin at the trone*) of wooll, bot they trone the samine to some men, and not to others; and takes giftes and buddes therefore, to the Kings hurt and skaith: And in likmaner they sould be challenged anent all kindes of wechts baith great and small.

FISCHERS OF SALMON.

CHAP. 16.

SAlmon fishers, quha fishes in waters, sould be challenged, that they keip not the mid streame of the water, as they sould doe.

2. They fishe in time of nicht, and at all times vnjustlie, ha- uand na consideration nor respect to the lawes or statutes; be the quhilk the taking of salmon is forbiddin, fra the evening song v- pon Setterday, vntill the rysing of the Sun vpon Mononday.

3. They sell the fishe at the water, quhere as they sould sell them in the market.

PVRVEYOURS TO THE KING JUSTI-

tiar or Chalmerlan.

CHAP. 17.

PVrveyours (*provisours, catours*) to the King, to the Justitiar to the Chalmerlan, sould be challenged; that they poynd mair abundantly then they haue command to doe, and vnder colour of the Kings price, they gather to them self singular profit.

2. They make not full and compleit payment, with the sil- ver allowed to them, for sic payment, bot payes to quhom they please, and sa meikill as they please, quherethrow the peopill in- curre great skaith, because they dare not complein vpon them, be reason of the rigour of their office.

TAVERNERS OF VVYNE. CHAP. 18.

TAverners of wyne sould be challenged, that they sell wyn, quhilk is not taited.

2. They sell with their awin proper measures, and not be sic

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as are approven be the Baillies.

3. They mixt corrupt wyne with fresh and haill wyne.
4. They sell before the pryce is made.

FISHERS OF QVHYT FISH.

CHAP. 19.

Fishers of quhite fishe sould be challenged, that they sell their fishe at the sea side; quhereas they sould sell them in the Kings market, quhereby they may justlie be called forestallers.

2. They sell the fishe in time of nicht, and hides them in houses, and in their innes, or ludginges, malitiouslie, to deceaue the people, quherethrow they incurre ane full amerciament. *vid. forestallers.*

REGRATERS OR HVKSTERS.

CHAP. 20.

Regraters fall be challenged, that they buy gudes before the lawfull houre; that is, before the first houre in the Sommer, and the thrid houre in Winter.

2. They buy gudes forth or without the towne, forestalling the samine.
3. They vse false measures.

FORESTALLARS.

CHAP. 21.

Iac. 1. parl. 4. c. 20. parl. 7. c. 113. **F**Orestallers may be accused, that they forestall the burgh, with their wooll, hyd, skinne, meill, and malt.

2. They pay not the Kings custumes, to the Kings custumers als oft as they sell their gudes vpon the flure; and quhen they sell them vpon the flure, they conceale the Kings custume to his great prejudice. And likewaies, they sell their gudes at *Dundie, Perth, and Leith*, and other places; and there conceales the Kings custumes, to his great prejudice, and vndoing of his burgh.
3. They are forebuyers of quheit, bear, and aites, copers, sellers, and turners thereof in merchandices. And swa they forestall.
4. They vse Gild merchandices, baikand and brewand, tapping walx, wyne, tar, and saip, and all other fredome quhilk they aucht not to present to the market, nor to vse nor doe.
5. They buy leather, & barks it, & concealles the kings custu.
6. The fishers firstallis the burgh, selland the fish at the water quhere

Fishers.

quhere they sould present them to the market.

7. They breake the fishes, and selles them in pennie worths.

8. They house the fishe, and saltes them, contrare the kings Lawes.

9. They open the fishe, and lukes not quhither they be mysel or lipper fish or not; & for this cause na fisher sould make laidner.

10. They fish vpon the halie day, and breakes the Kings statutes, and common ordinance; and the plaine ordinance of their awin fishers Court.

SOVVERS.

CHAP. 22.

Sovvers sould be challenged, that they bark lether, and makes shoone otherwaies then the law permittes; that is to say, of lether quhere the horne and the care are of ane like lenth.

2. They make shoone, buites, and other graith, before the lether is barked.

3. They sow with false rotten threid, throw the quhilk the shoone are tint, ere they be halfe worne.

4. Where they sould giue their lether gude oyle and tauch, they giue it bot water and salt.

5. They worke the lether before it is well connered, in great hinder and skaith of the Kinges lieges.

SKINNERS.

CHAP. 23.

Skidders sould be challenged, that they make gluses, and other graith, before their lether be kindlie wrocht and made.

2. They hunger their lether in default of graith; that is to say, alme, egges, and other graith.

3. They spil the lether and skinneres in the Kings water, quhen they are steippid therein.

4. They sow and workes with false graith.

5. They make them masters quha knawes not the craft.

TAILZEORS.

CHAP. 24.

Tailzeours sould be challenged, they make over meikil refuse and skaithes of mens claith, some times for great haist, and some times for ignorance of the craft.

2. They take peeces, and shredde the sleeves, and other small thinges.

3. They

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3. They make mens garments and weides, otherwaies then men commandes.
4. They sow with false graith.
5. They keip not to men their dayes.
6. They make men maisters before they knaw the craft, to the great skaith of the King and the people.
7. They worke on the haly dayes, contrair to the law of God.

WOBSTERS.

CHAP. 25.

WObsters sould be challanged, that they make over many lang thrummes, to the hurt of the people.

2. Quhen they take in claith with wechtes, and gives out againe the samine be wecht; they make the claith wak and donke, casting vpon it washe, vrine, and other thinges to cause it weigh, and thereby halding a great quantitie of it out to themselues.
3. They take evill and rotten zarne, and puttes it in the wob for haist.

MALTMAKERS.

CHAP. 26.

MAltmakers sould be challanged, that they make evill malt, and gude malt altogether, quhereas they sould make them fundrie, and of fundrie pryces.

2. They steip not their beir eneugh, for great skaith of making it.
3. They let it acherspyre, and shute out all the thrift and substance at baith the ends quhere it sould come at ane end onely.
4. They make it vpon ane evill flure, quherethrow it is spilt, and vnwholsome.
5. They make it not to be fired and reiked vpon the kill.
6. They grind it over small in the mylne, that it will not run quhen it is masked; quhere it sould be broken in twa or thrie cornes in the mylne.

SAIDLERS.

CHAP. 27.

SAidlers sould be challanged, that they make the saidelles of grene tries, quhere they aucht to be of withered and dry timmer.

2. They festen and bindes them not with lether, or glew, as they sould doe.

3. They

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3. They knit to the saddles evill harnissing, false brydles, bittes, and broken stirreppes, throw the quhilk many men are hurt and slane.

4. They sow with evill and rotten threid.

5. They keip not their dayes, with them with quhom they haue to doe.

6. They keip not halie dayes.

THE CHALMERLAN CLERK.

CHAP. 28.

IT is statute, that the Clerk be speciallie deput be the King, ha- uand na band, nor dwelling with the Chalmerlan: And fall be oblised to the King allanerlie: he fall sweare that he fall doe na- thing at the Chalmerlans command, to the Kings prejudice, bot in all and sundrie things, he fall advise the King, and fall do con- forme to his counsell and instruction.

THE TIME OF THE HALDING OF the Air.

CHAP. 29.

THe Chalmerlan fall not halde his Air in Winter, bot in the time of sommer, for eshewing great & sumptuous expenses.

VVECHTS AND MEASVRS.

CHAP. 30.

THe Chalmerlan Clerk fall carie with him, wechtes and mea-
sures in ilk Chalmerlan Air; and cause the Trone wechtes to
be maist sharplie examinat; and that they agrie with his wechtes
and measures, in na mair, nor na lesse.

Iac 3. parl. 4. c.

22.

Iac. 4. par. 3. c. 33

parl. 6. c. 96.

FORISTALLARS.

CHAP. 31.

ITem, the Chalmerlan Clerk sal present and exhibit to the king, in ane rolment in writ, all the names of them quha are indyted in ilk burgh for the crime of Forestalling.

AMERCIAMENTS.

CHAP. 32.

ITem, na amerciament fall be modified be the Chalmerlane, or be his Clerk, without speciall command or consent of the King.

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PRICE

Chalmerlan Air.

PRICE OF VICTUALS.

CHAP. 33.

14c. 6. parl. 7. c. 121.
ITem, the price of victuals, and other things, shall be made and constitute within the Burgh. And the Chalmerlan shall inquire diligentlie in his justice air, anent all them quha keipes not the said price.

ESCHEITS, AND FALSED DOMES.

CHAP. 34.

ITem, the Chalmerlan Clerk shall bring and present to the King in writ, all the elcheits in burghs, tenements, and others. And all the names of them that are put in the Kings will for their trespasses; together with all domes falsified within burgh, and the names of the parties.

THE CHALMERLANS DECREITS.

CHAP. 35.

IT is to wit, that all actions of mute or pley moved or brocht in before the Chalmerlan in his Air, be the law should not descend to any inferior Court, in any time thereafter.

EXECUTION OF THE DECREITS

and time thereof. CHAP. 36.

ITem, na taxed, or modified harmes or skaithes, nor na summes or debtes decreited, or recovered before the Chalmerlan in his Air, should be craved or taken vp, vntill fourtie dayes be bypast.

HIS DECREIT SHOULD BE EXE-

cuted be the Baillies. CHAP. 37.

ITem, the Alderman, and the Baillies, should cause all things decreited, and wone before the Chalmerlan in his Air, to be payed to the partie obtainer of the decreit.

THE CHALMERLAN JUDGE TO BAIL-

lies of Burghs. CHAP. 38.

ITem, quha challenges the Baillies of any burgh, in any thing touching his office; the Baillie should not answer bot before the Chalmerlan.

AR

ARTICLES TO BE INQVYRED BE SE-
cret inquisition, and punished be the law. CHAP. 39.

First gif there be any man quha mistayes, or injures the Baillies or Serjants in doing their offices; or stoppes them to doe justice as they sould doe.

2. Gif any man forestalles the burgh, buyand or selland beastes or other thinges.

3. Gif there be any lands within burgh, quhilk may be faulted or tint, for any cause.

4. Gif there be any sklanderers, rebelles, or nicht walkers within the burgh.

5. Gif any man hes abjured the towne (*sworne to passe forth of the burgh*) and is returned againe.

6. Gif there is any Bastard deceitled, and hes conquered lands, and hes na heires gotten of his awin bodie.

7. Gif ther be any venels stopped, or bigged vp, & be quhō.

8. Gif there be any land within the burgh, or without the same, quhilk payes not the King his zearlie rent.

9. Gif there be any man, quha favours any Lord, mair nor the King; payand to him ane zearlie rent or dewtie.

10. Gif any man procures, or causes any man dwelland a landward to come to the burrow Court, in hurt, and prejudice of his neighbours.

11. Gif any man drawes his neighbour from the temporall Court to the Ecclesiasticall Court.

12. Gif any man vses twa measures, or wechts, ballances, or elnes.

13. Gif the meithes and marches of the burgh, are wel keiped in all partes.

14. Gif there be any consideration amonst the indwellares within the burgh, be the quhilk the neighbours are vexed, or the pure folke oppretted.

15. Gif Litsters, or Sowters, quha are brèther of the Gild vses their offices with their proper hands.

16. Gif Sowters be Tanners of the lether.

17. Gif the purse or common gude is well keiped, & divyded, equallie as it sould be.

18. Gif the Baillies selles the liberties of the burgh, without consent of the communitie.

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19. Gif there be any man or woman, quha sayes, that they are not browsters; and nevertheles, some times they sell aill to them quha eates at their table, and to others, without any taisting made or price set vpon the aill.

20. Gif any receaves in harberie in their houses, any malefactors.

21. Gif any caries away wooll skins, hyds, or other gudes, for the quhilk they haue not payed the custume vfed and wont.

22. Gif there be any quha telles and declares to others the Kings counsell, or the counsell of their neighbours, or the votes or depositions of them quha passles vpon ane inquisition, or ane, assise.

23. Gif any hes given or dispooned lands or rents, to religious men, or to any kirk men, without the Kings licence.

24. Gif any man hes inbrocht false money, forth of ane foraine Realme.

25. Gif any man committes purpresture within burgh, in his awin lands, or in the commontie.

26. Gif any domes are falsified within burgh, and not presented to them, to quhom they sould be notified.

27. Gif the Baillies hes done justice vpon Baksters, Browsters, and others after that they were vnlawed.

28. Gif the Browsters selles the aill, be ane just measure.

29. Gif the Browsters brewes and selles aill, conforme to the price set vpon it be the taisters.

30. How oft ilk Bakster, and ilk breaker of the assise is vnlawed in the zeare.

31. Gif the Baillies selles bread and aill in their houses.

32. Gif any lipper man is receaved in the towne.

33. Gif there be any common sklanderers within the towne, not punished.

34. Gif double measures are vfed within the town, or elnes, or wechts; ane for selling, and ane other for buying.

35. Gif any man, not hauand the libertie, vses the libertie, against the libertie of the burgh; within the burgh, or without the samine, to the hurt of the King, and of his burgh.

36. Gif any man hes occupied, entered, or haldes vnjustlie the Kings land, or any other mans land.

37. Gif any Baillie in the assedation of the Kings rents, is
ane

ane partaker thereof.

38. Gif any occupies lands or rentes come in the Kings hands be any way, as be escheit, or be forefaltour.

39. Anent the Kings rents conceiled.

40. Anent them quha vses the libertie of the burgh, not hauand bigged land within the burgh, after zeare and day.

41. Of coukes graithand or makand reddie flesh or fishe, not wel, nor convenient for men to be eaten; or after they haue keipit the flesh or the fish, by & attour the time, they heate them againe at the fire, and selles them to the manifest hurt of the people.

42. Of allowance made & given to the Baillies of the burgh (*in their comptes*) and not payed to the pure, for cariage and doing of other labours.

43. Of them quha abstracts their gudes and their geir, at the cumming of the Chalmerlan, or his Clerkes; becaule they will not sell them to the King (*to the Kings officers*)

44. Of the Kings natiues or bondmen, lurkand within the burgh.

45. Gif there be ane gude alledation, and vptaking of the common gude of the burgh; & gif faithful compt be made, therof to the community of the burgh; & gif na compt is made, be quhom, & in quhaishands it is come, and how it passis by the community.

46. How the gauges of the measures of claith, and wyne is keiped.

47. To inquire anent the keeping and observation of the great and small custumes.

48. Of soys auchtand to the kings court, & abstractit therfra

49. And cariages taken vp and sauld over againe.

50. Of all braggers in the time of (*the burrow*) Court.

51. Gif the Baillies hes made ane rol of the pleyes pertaineing to the Kings Crowne within burgh; that is, burning, revissing of wemen, murther, and reit.

52. Gif the Baillies hes made ane abriegment, or rolment of complaints, betwix ane Burges and ane merchant, after thrie ebbings and flowing of the sea, continued voluntarlie.

53. Gif any man posselles measures, or wechts, quhilkis are not sealed with the seale of the burgh.

54. Gif widowes are compelled to watch the burgh.

55. Gif any man keipes or halds a stranger in his house langer

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nor ane nicht, and will not giue ane pledge for him.

56. Gif any man hes taken superfluous custome, aboue the constitution of the burgh.

57. Gif all the Serjants are commonlie chosen be all the Burgesles, conforme to the consweturde of the burgh.

58. Gif any man keipes hand mylnes other nor ane burges; or brewes, or makes malt, bot gif he make fine (*and compon*) therefore, & quha wil advow (*or mentaine*) him quha does the samin.

59. Gif the Baillies hes not made ane Rolment of all their Courtes and assises.

60. Gif there be any common servant to the burgh, quha is not Burges of the samin burgh; or hauand na inhabite land within that burgh.

61. Gif any of the Chalmerlans deputes, hes stand in pley against the King, or against the estate, and libertie of his communitie, with the Bishops, Abbates, Pricours, Earles, or with any other, for price or for prayer.

62. Gif there be any Burgesles quha hardlie handles or troubles als well stranger merchants, as merchants of this Realme cumand and arryvand at burghes, be sea or be land, against the lawes, not makand payment to them as they sould doe; and doing sundrie other injuries to them, quhereby they are compelled to leaue their cumming to sic burghs, and their havens and portes, to the Kings damage, and to the occasion of the hership and wrack of the communitie of the burghes.

63. Gif stallangers (*cremars*) commonlie buyes and selles within the burgh, as Burgesles, and be quhais permission; or gif they brew, or makes malt, or keipes or halds hand mylnes.

64. Of Serjants quha takes buddes, to hald back them fra the assise, quha are alreadie sworne to passe vpon it.

65. Of them quha spares the ritch men, and summons the pure men to passe vpon the assise.

66. Of them quha are banished forth of the towne, and zit lurkes in it.

67. Of hostillares within burgh.

68. Of fleshers being Burgesles, and slaying mairts with their awin hands.

69. Of listers Burgesles quha puts their hands in the wadd.

70. Of them quha halds or abstricts the Kings moulters, fra the

the Kings mylnes.

71. Of theiues and steillers of hennes, quheir, or other vi-
tually, or of any other thing within burgh.

72. Gif there be any nicht walkers, or walkers in time of har-
vest, or in winter, quietlie steil and other mens cornes and victual;
or waistand and destroy and them with their horse and cattell.

73. Gif there be any injurious persons of their neighbours, or
defamers of others, common fechtors (*tuilzeours*) or any other
malefactours.

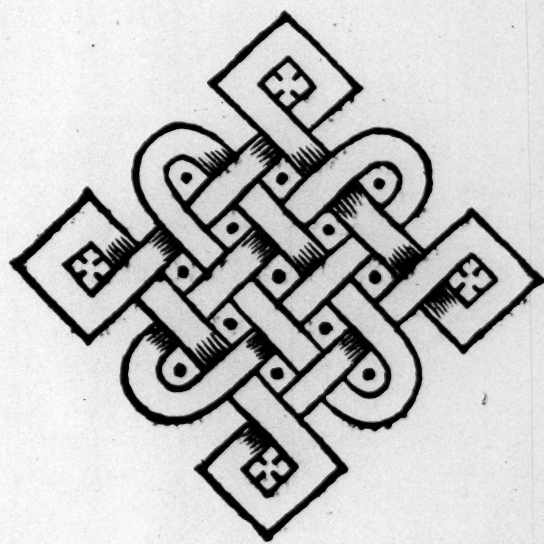
74. Gif any man halds fra the King his lawfull and zearlie
service aucht to him, for his land within burgh.

75. Gif any man selles merchandices in great, abstract and the
Kings great custome fra him and his customers.

76. Gif there be any quahes intrused himselfe violentlie in
other mens lands, and occupies the samine vnjustlie.

77. Gif the taxations within burgh, be equallie taken vp fra
the ritch men, and pure men, conforme to their gudes and geir.

A N E





SCHORT FORME OF THE IVSTI- TIARS AIR.



FIRST CALL THE SOY-
tours, and their Lords: For albeit the
soytours compeir, neverthelesse their
Lords are oblited to compeir in pre-
sence of the Justitiar, in his Justice Air.
Bot they ould be summoned be the
Serjants of the Court, at their dwelling
houses, before lawfull witnes, of sun-
drie Baronies.

drie Baronies.

2. The Justitiars commission ould be produced, and read publicklic.

3. The Court ould be fensed.

4. The Domster ould be sworne.

5. The soytours ould be called the secund time, ilk ane twise with their Lords and maisters, and amerciat the abtentes.

6. That being done, cause judge the defaults of parties, and amerciat the absentes.

7. Call the brieves, and the parties summoned, gif any be.

8. The summons fall be verified to haue bene made vpon the space of fourtie dayes, at the least; otherwaies to be judged null. And gif they be not verified, the Serjant of the Court (*the executour of the summons*) fall be vnlawed, and the partie fall be made guyte and frie.

9. Ane allise fall be chosen, of the best and worthiest men of the cuntry, quha fall swear the great eath, that they the suth fall say, and na suth conceale for oght that may be, in sic thinges as fall be

pro.

proponed to them.

10. The Crowners shall be called, and the dittay received and produced; all persons indyted shall be called; and gif they compeir, shall be presented to the Court, and accused: And the Schiref shall answer for them, vntill justice be done vpon them.

11. Gif any man hes power or commission to repledge men fra the Justitiar, to the Court of any Regalitie; they shall shaw their power and commission, and pay therefore. And gif the replegiation is admitted to them, they shall leaue ane *culreach* behinde them in the Justitiars Court, for doing of justice in the Court of the Regalitie. Bot the Justitiar shall advertise diligentlie, that these persons be not fraudfullie repledged to Regalities. And that persons alledge them to haue Regalities, quha hes nane.

12. Therafter it shall be speired, at the Baillies of the Burrowes, gif they be present, quhilk are their neighbours, quhilk they will repledge & borrow. And they shall be commanded to present them in ane sheddulle, and to shaw their commission, and pay therefore. And it shall be speired at them, gif they will draw them selfe, and their commission, and burgh of E. as pledge, that the saids persons shall be forthcumand to the law, and the Justitiars challenge. And gif they say zea, they shall hald vp their hands: Bot before that this be done, the Baillies shall present ilke person bodelie, before the Justitiar, at the first day of the air. Iac. 4. parl. 1. c. 1.

13. The Clerk shall call the Rolles containand the names of them quha are indited, and summoned. And first the names of them quha were continued to the air. And swa proceed against them, and thereafter conforme to the Rolles.

14. They quha hes respettes, shall desire they being personally present, or be their actornaies, to be continued and delaied. Bot gif any man hes accused be ane certaine accuser, vnder saif and sure pledges; the respit should not saue him: Because the King may continew and respit the action, and entres pertaining to him selfe, bot he may not prejudice the parties richt, or entres.

15. Item, gif he quha is accused, alledges ane remission, he shall produce the samine in judgement: And albeit his remission is generall and sufficient: zit gif he denyes the cryme, quhereof he is accused, he shall passe to ane assise. And gif he is convict, his remission shall doe na gude to him. Therefore he quha vses ane remission, shall be ware that he deny not the crime. Nevertheles he shall

The short forme, &c.

fall proue, that he offered to the narrest kinsman of him quha is slane, ane sufficient allythment and satisfaction, conforme to the qualitie and quantitie of the cryme. And gif he hes done swa before the Iustitiar, he fall finde sufficient pledges, for payment of the said allythment. Quhilk gif he refuses to doe, or may not doe; justice fall be done, and execut vpon him, and his remission fall not helpe, or saif him.

16. Gif he quha is accused, compeires personallie in the court and is convict be ane assise; he sal suffer the pain of the law, quhilk is prescribed and set downe be the law, for the crime of the quhilk he is accused and convict.

17. Gif he is absolved and clenged be the assise of the crime, he fall passe quite and frie.

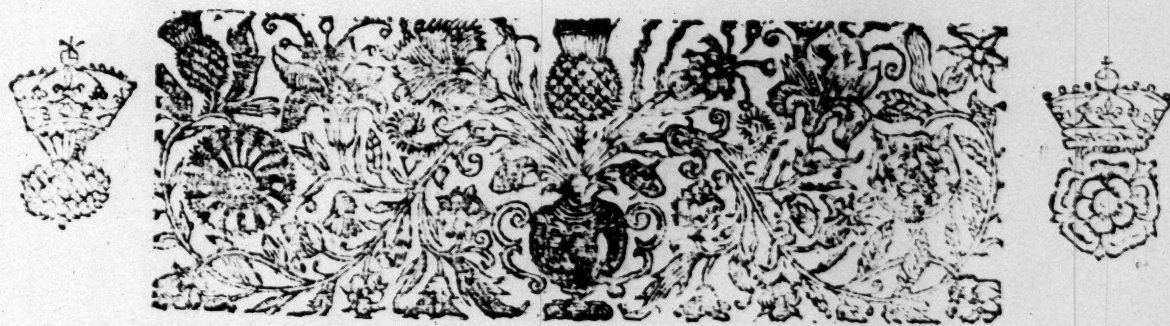
18. Gif he comes in the will, and craues grace and mercie for his trespass: he fall compone & fine with the King, or his Iustitiar.

19. Last of all, gif he quha is indited and lawfully summoned compeirs not in the Court before the Iustitiar; he being lawfullie called in the Court, fall be vnlawed, and publickly denounced rebell, and all his gudes fall be confiscat to the Kings vse, according to the qualitie and quantitie of the crime, for the quhilk he was indited and summoned.

FINIS.

STAT.





STATVTES OF KING VVILLIAM, MADE AT PERTH.

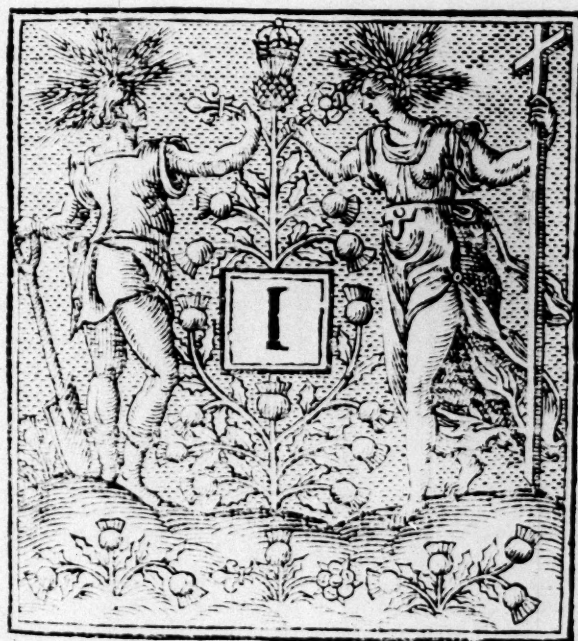
HE WAS SONNE TO HENRIE
THE PRINCE, NEPHEWE TO KING

DAVID the first: he began his Reigne, in the zeir of the
warld, 5135. And of Christ, 1165. And Reigned

49. zeires.

THE WARANT OF THIFT.

CHAP. 1.



IT PLEASD THE
King and his Counsell, that
gif anie man be challenged
for thift, & alleages ane man
for his warant: that the cu-
stome and Law made be
King *David*, as zit, salbe kept,
vntill ane other Law be made
thereanent.

OF IVSTICE AIRES,
and Schiref courts.

CHAP. 2.

Bisshops, Abbates, Earles, Barones, Knichtes, and Frechal-
ders, being charged conforme to the kings precept, sould be
present, and compeire at the Justitiars aire.

A

2. It

Lib. 1. c. 17.

Iac. 5. parl. 6. c. 71.

Quen. Attach. c.

79.

The Statuts of,

2. It is likewise statute be the King, that at the head and beginning of ilk fourtie dayes, ilk Schiref fall hald his courts.

3. And barones, knichts, freeholders, and the stewards of Bischops, of Abbats, and of Earles, sould be present at the Schiref courts. And gif anie of them failzeis to compeir: he fall vnderly ane vnlaw.

*116.1.parl.9.c.13¹
116.1.3.An.32.c.*

4. The Justitiar may nocht hald court anent the pleyes of the crowne; quhilks falls out, within the jurisdiction of anie Schiref. bot at the head of fourtie dayes. Because the elsonzies sould be made before the Justitiar, or his deputes.

5. Conforme to the Law of the Realme, the Schiref, at command of the Justitiar, may receave in his court, the pleyes of the crowne.

6. And the defender be the Law sould be summoned to ane space of fourtie dayes, at the least.

7. And gif the Justitiar of his grace and favour, gaue to the defender ane day, to the end of eight weekes: of the Law, the defender can nocht refuse, to be summoned at the next daie, vpon the space of ane moneth. Because in that case, he will haue granted to him, twise fourtie dayes, for twa termes.

THE JVDGES OF THE CVNTRIE,

sould follow the King.

CHAP. 3.

AT Montrose, it is statute, that quhen the King comes intill anie Schirefdome, the Judges within that Schirefdome, the first nicht sould come to him.

116.2.parl.3.c.6.

2. And it fall nocht be lesome to them, to returne fra the Kings court: vntill the King passe furth of that Schirefdome, bot be the Kings licence.

3. And gif anie of them returne without licence: he fall giue to the King ane vnlaw of aucht kye.

OF THEM QVHA DEFORCES THE

Kings Officiars

CHAP. 4.

GIf anie man deforces the Kings officiar, in doing his office; the officiar and others the Kings trew subiects, suld take and appre-

apprehend him : and let him to libertie , vnder securitie of ane plege, fund be him before the Schiref, that he fall answeere, quhen it fall please the king to challenge him.

2. And gif he vnjustlie withdrawes him from the attachment : the officiar fall raise the kings horn vpon him, for that deforcement, vntill the kings castell. *Stat. 2. Rob. 1. c. 21
Iac. 6. parl. 7. c. 117
parl. 11. c. 84. parl.
12. c. 150.*

3. And quhen he is attached, and produced before the Schiref : and denies the deforcement : the Schiref, gif he please, may let him to borgh : he find and ane borgh, to comper personallie at the Schiref court. *Henr. 3. An. 52. c. 3*

4. And quhen he compeires their : the Schiref suld scharplie accuse him, of sik ane deforcement done to the kings officiar : in exercising of his office : in despite and contempt of the king : and may taxe, and modifie quhat harmes, and skaeth he please vpon him.

5. And gif the deforcer is convict be ane gude and faithfull Assise of the said deforcement : and likewise of the contempt done to the King : his bodie salbe imprisoned at the Kings will : bot he fall nocht tine his lands and tenement.

OF INJVRIE DONE TO ANE,

within girth.

CHAP. 5.

GIf ane man within sanctuarie, or in anie other place, askis & craues the Kings peace : and ane other man be euill zeale and purpose, lifts vp his neive or fist, to strik or beat him; and that be proven be twa honest men : he fall pay to the King foure kye and to him quhom he wald haue striken ane kow. *Stat. Alex. c. 6.
Stat. Rob. 2. c. 9.
Iac. 1. parl. 2. c. vlt.
Iac. 3. parl. 5. c. 35.
Iac. 5. parl. 4. c. 22.
Exod. c. 21. 13. 14.
Num. c. 35. 15.
Deuter. c. 4. 41. c.
19. 2.*

2. And gif he giues ane blow with his neive, nocht drawand blude, he fall pay to the king, sex kye and to him, quhom he did strik, twa kye.

3. And gif he drawes blude, he fall giue to the king nine kye, and three kye to him, quhom he did strik.

4. And gif he fells or slayeshim, with his neive, he fall gif to the king, tuentie nine kye, and ane zoung kow : and fall assithe the freinds of the defunct, conforme to the Law of the cuntrie.

The Statuts of,
OF VIOLENCE DONE, WITHIN
the Kings Court.

CHAP. 6.

Iac. 6. parl. 13. c.
173.

Gif ane draw a knife to ane other, within the Kings Court:
the knife salbe striken throw the middis of his hand.

2. And gif he drawes blude: his hand salbe cutted aff.

3. And gif he slaies anie man: he fall giue tuentie nine kye,
and ane zoung kow: and mak peace with the friends of the de-
funct, conforme to the Law of the cuntrie.

GREAT NOBELL MEN, SVLD NOCHT.
maintene malefactors.

CHAP. 7.

Leg. Malc. 2. c. 14.

Iac. 1. parl. 1. c. 4.

parl. 2. c. 37.

Iac. 3. parl. 14. c.

98.

Iac. 5. parl. 7. c. 97.

Iac. 6. parl. 12. c.

144.

IN the Assise made be King *VWilliam*, at *Perth*; the quhilk, Bi-
shoppes, Abbatts Earles, Barones, Thaners, & all the cōmunitie
of the Realme did swere to keepe & observe firmelie. That they
fall nocht reset nor maintene, theifs, manslayers, reifers, mur-
therers, nor other malefactors.

2. And quheresoeuer they find them, either being their awne
men or others, after their power, they fall bring them to justice:
and fall assist, and maintene the Justitiars of the land.

3. And that they fall nocht receaue, nor take siluer or anie
budde, for doing of justice be water, irn, or be battell, or for anie
maner of judgement: quhereby the effect of justice may be
stayed.

4. And that they fall assist and help the King, after there po-
wer, to inquire and take malefactors to be punished.

5. And quhen they salbe required be the King: ilk ane of
Iac. 1. parl. 2. c. 37. them fall declare and testific, sameikill as they vnderstand of the
proceedings in other mennes courts.

6. And the King (*for obseruation of this Law*) tuke and recea-
ved their courts in wadde. Swa that he quha salbe convict of the
breakin of this Law: fall tyne his court perpetuallie.

THE

THE PANE OF HIM, QVHA DETEINS
ane other mans, bondman.

CHAP. 8.

IT is statute be the King, that he quha deteins ane other mans bondman fugitiue fra his maister: after that he is socht and craved be his maister or be his Bailie, fall restore him with all his cattell and gudes: and fall giue to his maister, the double of damage and skeath susteined be him. And mairouer he fall be in the Kings mercie, for the wrangous detention of that bondman.

THE LAW OF MILNS.

CHAP. 9.

IT is statute at *Scone* be king *William*, and common consell of the Realme, that all they quha hes milns in ther lands: fall haue ane maister, and tua servants mil-knaves, quha fall swere to be leill and trew to the Lord of the land, and his men.

2. Ane free man or ane free halder, fall gif for multure at the milne, the sextene vesshell, or the tuentie or threttie, according to his infestment. And mairouer of tuentie bolles, ane firiot (as *knauship*)

3. Ane husband man and ane fermer, fall gif the thritten vesshell of their lands of service: and maireour of ane chalder, ane firiot (for *knauship*)

4. *Item*, gif the milne is brokin, or without water: or is stayed be the frost and ice: the miller, fall pas throw all his maisters men: and fall agrie with them, anent their cornes, and multure.

5. The like is to be vnderstand of hand milns.

6. *Item*, gif anie man byes cornes in ane baronie: and passes throw ane other baronie: & there taries at ane hostillarie, drinke- and, eatand; and layes down his seck in the Kings way: he is free fra multure: Bot gif he layes down his seck, vpon the middin, or within the house; he fall paie multure.

7. *Item*, gif anie man, in anie Baronie, takis land to ane certaine terme, for ferme: and after the terme will flit, and remowe; he fall haue his seid frie from multure: and fall grind

The Statuts of,

all his cornes, for the multure of the nintene measure, or vessell.

8. *Item*, gif ane man hes ane vse to pas to ane other mile with his cornes, without licence of the miller: and doeing that, is takin be the maisters servant: the maister, fall haue the horie, and the miller, the seck and the corne.

9. *Item*, gif ane fermer, renunes and giues vp his Landes to his maister: and makes fine (*aggreance*) with the miller, for the multure: he quha enters, fall haue tua partes: and he quha removes, fall haue the third part of the multure.

THE TIME, AND CAVSSES, OF *falsificng of Domes.*

CHAP. 10.

Quon Attach. c. 13
Iac. 1. parl. 9. c. 116
Iac. 3. parl. 14. c.
105.
Iac. 4. parl. 6. c. 99.
95.

GIf ane dome is pronounced in ane Schiref court, or within burgh: it fall stand as ane lauchfull dome; bot gif it be agane-said.

2. And gif he agains quhom it is given, is present: and before he ganefay the dome, he turne his taes, for his heill stude: and that be proven be the court: thereafter he fall nocht be hard to ganefay that dome: albeit it be plane false in the self.

3. And gif he is absent: he is oblissed, within fourtie daies, to ganefay, and falsifie the dome given agains him.

4. For thir causes, that is, gif it be given agains the law, for profite, or for freindschip, or inimitie, or be ane Judge sibbe be reason of blude to the partie, or be ane husband man, or be ane outlaw, or be him quha is menisworn, or chased about the kirk, or excommunicat, or inhibit, or be ane man quha is mad or furious, or ane naturall fuill, or ane religious man, or ane Preist, or ane quha is redemed fra the death for his trespas: or gif it be pronounced vpon ane halie day, or forbiddin be the Law.

OF INFAMOVS MEN.

CHAP. 11.

All persons are infamous, quha are condemned, and convicted for ane notable fault, or trespas.

2. All these quha refuises the Christiane religion, and contemnes the ordinances of the Kirk: all theifes, all sacrilegious persons.

3. All

3. All men convict of capitall crimes, all Violators of graves: all they quha willinglie violats and breaks the statuts, of the Apostles thair succellors, and of othir halie fathers.

4. All they quha vses armour agains their fathers: quha in all the world are haldin and noted as infamous.

5. Sic like incestuous persons, perjured or mensworn, manslaughterers, reletters of malefactors, adulterers, reifers, Witches, they quha fleis in common battels; thay quha halds vnjustlie other mens rowmes and places: all they quha intrometes, and takes away the gudes of the kirk: and all they quha accuses ane other, & proues nocht: all they quha provokes the Kinges anger contrair innocent persones: they quha makes publick repentance: he quha hes tua married wyffis at ane time: all they quha for crimes, are expelled furth of the kirk.

Mar. parl. 4. c. 8.

Iac. 6. parl. 3. c. 53.

parl. 11. c. 27. parl.

11. c. 197.

6. All they quhom ecclesiasticall and temporall Lawes declares to be infamous. *Item*, all servands quha flies away before they obtene lauchfull libertie: all they quha hes contagious seiknes in their bodies, or are lamed, and nocht haill in bodie: they quha are nocht haill in mind, or wit.

7. All these persones foresaids, sould nocht be promoted to anie function within the kirk, nor to accusation, nor to be witnes in anie cause.

OF THEM QVHA MEETES OTHER

in the way.

CHAP. 12.

GIf ane man have and na other thing, bot lede and ane horse, or ane other beast in his hand, vpon ane brig; or in anie other strate way: or in anie other dangerous place, occurs, or meetes ane other man, ane or moe, drivand before them and nocht lede and in their hands, findrie horse, or other beastes: or lede and in their hāds horse charged (*bere and Laid*) ouer the brig, or in ane other place, or way, quhere ane mā can nocht passe by ane other, without skeath: bot of necessitie the ane man meete the other; and leaue that way be returning back agane: He quha hes bot ane horse, or other beast lede in his hand, be the Law, suld turne back agane: and iuffer him, or them, quha hes moe horse, passe fordward in the hie way.

2. And gif he quha leides bot ane beast, will nocht retorne back:

The Statuts of,

back: bot be thrawertnes, passethrow them, quha drives the many horse & be his passing fordwart throw them, anie harme or skeath is done: be the Law, he suld restore and satisfie the famine to him quha receaved and suffered it: And nocht contrarie wayes. Becaulse na man, quha is fast and bund, may saue him selfe fra him quha is louse.

LANDS SOULD NOCHT BE ANALEID

upon deid bed.

CHAP. 13.

Lib. 2. c. 15. 7.

NA man in his bed of seiknes quhereof he deceitfles, in prejudice of his aire, may analie nor gif to anie man, his lands pertaining to him heretablie, within or without burgh, nor na lands quhilkis he conquested in the time of his health.

2. Except he be burdened with debt: swa that of necessitie, he is compelled to sell or wadset his lands.

3. It is commonlie said, *necessitie hes na law*, speciallie quhen his aire may nocht, nor will nocht releue him of his debt.

STOLLEN MONEY, FVND BE

the awner.

CHAP. 14.

Exod. c. 22.

GIf ane man denunces, that his silver is thifteouslie stollen fra him: and he find it in anie toun, and na man clemand titill to it: It is nocht lesome to him, to take it away quietlie as his awne: but he sould leaue it in the keeping of the honest men of the toun: and passe to the Schiref and orderlie, and at length declare the thift to him.

Vid. Exod. c. 22. 7.

2. The Schiref or his deputie, fall compell the provest, with tua men of that toun, to purge them self, be their aeth, that they knaw na thing, anent the stealing of that silver.

3. And quhen the awner, hes prouen that silver to be his: he fall haue it quietlie, and peaceablie.

THE PANE OF THIFBOTE.

CHAP. 15.

GIf anie man after Lentrone, next followand the Kings deliverance (*of his captiuitie in England*) is challenged for theift: or that he hes given ranson for theift: and that be prouen agains him,

him, be the proveſt of that toun, be his aith, and the aith, of other three leill men, indwellers of the ſame toun: he ſall be taken, and ſall vnderlie the Law of water.

2. Bot gif by and attour the ſaid teſtimonie, alſo the witneſſing of other three men can be had and obtined: he ſall na waies be ſuffered to fecht, or to ſuffer water, or irn; bot incontinent ſalbe hanged.

3. *Item*, it is nocht leſome to anie man, to take or giue ranſon for anie theif; after the dome of water or of battell, is giuen agains him.

THE SCHIREF SVLD BE PRESENT

in the Barones Courts anent battell, water, and irn.

CHAP. 16.

IT is nocht leſome to ane Baron to hald courts of ſingular battell, water or irn, bot gif the Schiref or his deputies be preſent, to ſee that law and juſtice is done. *Stat. Alex. c. 14.*

OF CESSION OF GVDES.

CHAP. 17.

HE quha ſould be made Bairman, ſall ſwere in court, that he hes na gudes nor gere, attour five ſchillings and ane plak. And that he ſall nocht retene to him ſelf, of all his wonning, and profite fra that day, in anie time comeing, bot twa pennies for his meat and claith. and he ſall giue ilk third pennie, for payment of his debt. *Quon Attach. c. 7. Henr. 8. An. 34. c. 35. c. 4. Eliz. An. 13. c. 7.*

2. And he ſall ſwere, that he ſall doe to all men, as lawes commands.

3. And he ſall find pleges, gif he may, to answer as Law will.

4. And gif he ſall agane in the like, or ſame eſtate: he ſalbe banifſed the Realme.

THE TRESPASSOVR SVLD SVFFER

judgement, quhere the trespas was committed.

CHAP. 18.

IT is ſtatute, that quhere ane man is attached at the inſtance of ane other, & ane trespas is comitted; in the ſame place quhere it is committed, he ſall be accuſed, & abide the Law: albeit he hes fund plege, in ane other place: as uſe is in ſundrie Schirefdomes. *Quon Attach. c. 12*

HOW

The Statuts of,
HOW FARRE THE WIFE IS OBLISSED,
for hir husbands trespass, or contrarie wayes.

C H A P. 19.

THe wyfe is nocht oblischted to accuse hir husband; nor to disclose his thift, or felonie: because scho hes na power of hir selfe.

2. Bot the husband suld nocht consent to the felonie, or trespass of his wyfe: nor zit the wyfe to the trespass of hir husband; bot scho suld stay him, sa far as scho may.

Quon. Attach. c. 12. 3. In certane and in sume cases, scho is oblischted to answer for hir husbands deed: that is, gif the thift or trespass, of hir husband, is fund and apprehended within hir keyes: quhilks scho suld haue in hir cure, and custodie: that is, of hir spens, hir ark of hir claithing and jewells, or of hir cist or coffer. And gif anie thing stollen, is fund within sic keyes: the wyfe is giltie with hir husband.

4. Bot gif the thing quhilk is thifteouslie stollen, is fund in the keeping, or in the possession or power of the wyfe; the husband fall nocht be oblischted to answer therefore: except he consented to warant that thing to his wyfe, quhen scho fall call him for hir warant.

5. The husband is vnderstand to consent, or to grant: gif he knawes, and does nocht expresselie dissent.

6. And gif the husband is halden, and repute ane honest man: and that sundrie times, sa far as he micht, he corrected his wife: he fall nocht answer for hir bot gif he please.

7. Bot gif the wife with the husband is convict, or confesses that scho was arte and part with him: they baeth salbe oblischted to answer. Because the husband may be esteemed wicked and euill be him self severallie, and the wife to be gude and leill. And the wife may be repute and halden wicked & euill be hir self, severallie, and the husband to be gude and leill, sua that they may be convenientlie, and severallie gude or euill. And therefore the wife suld nocht be delivered (*or made free*) in all cases. Bot quhen they are baeth participant in the crime: swa they salbe partakers of the pane.

8. Albeit the wife sould obey hir husband. Neuertheles in capitall or cruell crimes, scho is nocht oblischted to obey him.
And

And swa ilk ane of them sould be punissh'd according to their demerites.

9. It is nocht to be swa vnderstand of ane concubine, or of the servants of the house: because they sould reveale and disclose the trespasses of their maister: or then remoue them selues fra his service: otherwaies they wil be esteemed to haue knowledge of his doings: and therefore to be gilty and culpable.

OF THE SERVANT WOVNDED

be his maister.

CHAP. 20.

GIf ane servant is wounded be his maister in his face, swa that he can nocht be healed without deformitie: he sould haue the fourt part of his awin price (*being modified*) and also the price of scheding of blude. *Exod. c. 21. 20. 26.*

PAYMENT OF THE KINGS DEBTS.

CHAP. 21.

GIf ane man deceisfes, haldand temporall lands of the King: the Schire or the Kings Baillie fall schaw, letters patent of summons agais the defunct, for the debt quhilk he aucht to the King. *Stat. 2. Robt. c. 9. Henr. 3. An. 9. c. 18.*

2. And it sal be lesome to the Schire, or to the Kings Baillie, to arrest, & mak ane inventar of all the moveable gudes, quhilk the defunct had in that land, be the sicht of honest men, to the valour of the debt.

3. Swa that na thing sal be removed or taken away, vntill the Kings debt be clerely payed.

4. And the super plus sal be left to the executors, to mak the testament.

THE DEBTS OF HIM QVHA DE-

ceases intestat.

CHAP. 22.

GIf ane free man, decease intestat; his gudes sal be distributed be the sicht of his friends, parents, and be the provision of halie kirk: reservand to all creditors, the debts aucht and to them be the defunct. *Edward. 1. An. 13. c. 19. Edward. 3. An. 31. c. 11. Jac. 4. parl. 6. c. 76.*

2. After the decease of anie man intestat, and awand debts to

The Statuts of,

to creditors: his gudes sould be disponsed be his ordinar (*Bis-
chop*) and the ordinar salbe oblissed, to answer for the debts, fa
far as the gudes and geir will extend.

3. In the samine maner, that the executors sould doe, in
case, the defunct had made ane testament.

OF THEM QVHA COMES TO THE *hoist.* CHAP. 23.

*Jac. 1. parl. 9. c.
120.*

Jac. 2. parl. 13. c. 57

Jac. 5. parl. 6. c. 86

Stat. 1. Rob. 1. c. 27

*Edward. 1. An. 13.
c. 6.*

IT is statute that ilk man of the age, betwixt saxtie and saxtene
zeires fall be sworn, and fall haue armes (*weapons*) according to
his lands and moveable gudes.

2. That is, he quha hes fiftene pond land; or fourtie marks
worth in moveable gudes: fall haue ane horse, ane habergeon,
ane knapiskay of iron, ane sword, ane dagger.

3. He quha hes fourtie schilling land, or mair, vntill ane
hundreth schilling land, fall haue ane bow, and arrowes, ane
dagger, and ane knife.

4. He quha hes les nor fourtie schilling land, fall haue ane
hand axe, ane bow, and arrowes.

5. And all others quha may haue armour: fall haue ane bow,
and arrowes out with the forrest: and within the forrest, ane
bow, ane pyle.

6. *Item*, it is statute, that wapinschaw salbe keiped & haldin.

THE EMENDS FOR SWINE. CHAP. 24.

GIf swine work vp ane other mans medow: the awner or
maister of them sould fill with quheat, all the holes wrocht
bethem.

THE OFFICE OF ANE JUDGE. CHAP. 25.

Jac. 1. parl. 6. c. 85.

Jac. 3. parl. 5. c. 26.

Jac. 5. parl. 7. c. 104

Jac. 6. parl. 12. c.

124. parl. 6. c. 93.

Stat. 1. Rob. 1. c. 22.

All Judges sould carie in their hands ane paire of ballance:
(*judge equallie*) for all judgement, sould be without excep-
tion of persons.

2. Nothing is mair wicked, nor to tak buds in judgement,
because buds and gifts, blindes the eyes of the wisemen; and per-
verts the words of the just men: In quhat measure thou judges,
in that samine measure thou salbe judged: therefore ane Judge
sould

sould feare God the great Judge; that quhé God comes to judge, he fall nocht be condemned.

3. Na foole nor wicked man sould be ane Judge: Because ane foole be ignorance, and ane wicked man, be avarice, will corrupt justice.

PROBATION OF ESSONZIES.

CHAP. 26.

GIf ane man, is essionzied at the fourt day, be reason of seiknes or bed evill, or being bezond *Forth*: he fall have respit, or ane continuation of fourtie dayes.

2. And gif he be essionzied, as furth of the cuntrie: or at ane faire: quhen he compeires in court: he fall preive that, be his awne eath, and be ane man sverand with him.

3. And gif he is essionzeid be bed euill: visitours fall passe to him, and see gif he does that be fraud, or nocht. And gif he does fraudfullie: he fall compeir, or tine his richt.

FOR QVHAT CAUSES, BATTELL

may be remitted.

CHAP. 27.

IN three cases battell may be remitted and relaxed: that is, quhen anie man commits fornication, or adulterie with his neighbours wyfe: he may be compelled to fecht. Bot that battell may be swa remitted: that is, quhen they haue sticken downe their speres; the defender may grant the fault, & swa mak peace.

2. *Item*, be the Law of *clanmak-duff*, anent the slauchter of *mak-duffes* progenie (*and kindsmen*) gif anie of the progenie of the ane partie may come vpon the hie way (*quhere the battell is*) betwix the prover (*appeller*) and his spere.

3. *Item*, gif blude be drawen (*in anie part of the bodie*) vnder the end (*or mouth*) quhen they haue fixed their speres: the defender may confesse the fault; and grant to amend it, and swa make peace. And in na other case.

OF ANE MINOR CALLED FOR

warandice.

CHAP. 28.

I*Tem*, quhaever calls anie mans aire as warant, quha is minor, *Quon. Attach. c. 55* and within age: incontinent he sould produce some Chartour, *c. 90.* quhereby he is infest, be the antecessour of that minor. And this he sould doe the first day (*or court*) quhen he calls him as his

B

warant.

The Statutes of,

warant. Quhilk gif he does nocht the first day, and schawes nocht his Chartour, he fall tene his failing.

ANENT WARANDICE OF DOWRIE,

ane minor may seeke restitution in integrum. CHAP. 29.

QWhen ane woman seekes her dowrie be reason of ane Charter made be ane predecetfour of ane aire, quha is minor: and the minor is called as warant, be him fra quhom the dowrie is socht: suppose the aire quha is minor, may nocht, nor can nocht alledge anie reason, quhy he sould nocht warand the dowrie: nevertheles quhen he comis to perfite age; he may say agains that warandice: gif he can schaw, or say anie thing, quherefore he is nocht oblitted to that warandice.

OF THE HERBERIE, AND TESTA-

ment of strangers. CHAP. 30.

All strangers (*of other cuntries*) may be harbored and lodged quhere they please.

2. They haue freedom to make ane testament gif they please: quhilk being made be them; sould be fulfilled and keiped inviolable.

3. And gif they decease vntestat: na thing sould pertaine to their host with quhom they were lodged.

4. Bot the Bischop, within quha is Bischoprik the geir is, fall intromete therewith: and he fall deliver the geir to the right air, gif that can be done, or it salbe disposed to halie vse.

Deuter.c.24.7.

Exod.c.22.21.c.

23.9.

5. Gif the host agains this constitution halds and deteines anie part of the gudes and geir. he fall deliver the triple thereof, to the Bischop; to quhom all and hail the gudes sould haue bene given.

6. And he quha does the contrare: fall not have power to mak ane testament; and thereby salbe punished, quhereby he trespasssed, or otherwise salbe punished as the qualitie of the fault requires.

OF DISMEMBRING OF LANDS.

CHAP. 31.

GIf anie freehalder giues or sells anie part or portion of his lands; he sould leave behind as meikill of the land, as may pay to the ouerlord the service aucht to him furth of the land.

2. And gif anie does in the contrare: and is called to comper in

in court to answer for his trespass; he shall tine the lands halden of that our Lord: except he have his consent, or confirmation.

*Stat. Rob. 3. c. 19.
Stat. David. 2. c.
34.*

OF THE FREEDOM OF HALIE KIRK.

CHAP. 32.

IT is statute be king *VWilliam* at *Scone*, with common consent, and deliberation of Prelates, Earles, Barones, and freeholders, that the halie kirk of *Scotland* and the trew religion, and all the clergie, shalbe mainteined with all their ritches, liberties, & privileges, in quietnes, peace, and at all time in the Kings protection.

Stat. 1. Rob. 1. c. 1.

NA MAN SOULD TROUBLE OTHER

mens lunds. CHAP. 33.

ITem, it is statute, that the Earles, Barones, and freeholders of the Realme, shall cause their servants keip peace, and Justice: and that they liue as maisters and Lords vpon their awne lands, rents & fermis. And nocht as husband men, or pastours, wast and their lands, and the cuntrie, with multitude of scheip, and beasts; thereby trubland Gods people with skarfnes, povertie, and on outer hairschip.

OF THE LIFE, AND HONESTIE

of Clerkes. CHAP. 34.

ITem, it is statute, that kirkmen liue honestlie of the fruites, rents, and profits of their kirks: and shall nocht be husband men, scheipheards, nor merchants.

THE LIBERTIE OF THE MER-

chants Gilde. CHAP. 35.

ITem, it is statute, that the merchants of the Realme shall have their merchant Gilde: and shall enioy and posses the samine; with libertie to buy and sell in all places, within the bounds of the liberties of Burghis; swa that, ilk ane be content with his awne libertie; and that nane occupie, or vsurpe the libertie of ane other: that he be nocht convict and punished in the chalmerlane aire, as ane forestaller.

BVYING AND SELLING OF MER-

chandises, and of custome. CHAP. 36.

*Jac. 5. parl. 4. c. 20.
parl. 7. c. 113.
Leg. burg. c. 78.*

ITem, it is statute, that na Prelat nor kirkman, Earle, Baron, or secular person, shall presume to buy wooll, skinnes, hides, or

The Statutes of,

sicklike merchandise. Bot that they fall sell the samine to merchants of Burghis, within quhais Schreisdome and libertie, the awners sellers of the merchandises does dwell.

2. And it is commanded be the King, that the merchandises foresaid, and all other merchandises, salbe presented to the mercat, and mercat crosse of Burghis: And there at the least, salbe offered to the merchants of the Burgh effectuellie, without fraud or gile.

3. And the custome thereof salbe payed to the King.

STRANGER MERCHANTS SOULD BVV and sell with Burgessees. CHAP. 37.

Leg. burg. c. 18.

Jac. 4. parl. 4. c. 41.

Item, it is statute that na stranger merchant of quhat somever nation he be, fall buy or sell anie kind of merchandise without Burgh; bot within Burgh allanerlie: and cheiflie to merchants, and fra schips perteing to the merchants of the Burgh.

2. Likewise the King commands that na stranger merchant arrivand with schips, and merchandises, fall cut claith, or sell in pennie worthes: bot in great, and that within Burgh, and to the merchants of the Burgh.

3. And gif anie stranger merchant, fall happen to be found doeand the contrare: he salbe apprehended be the servants of the Gild, and salbe punisshed as ane breaker of the Kings defence and protection.

JUSTICE SOULD BE DONE equalie. CHAP. 38.

Stat. 1. Rob. 1. c. 2.

Jac. 1. parl. 1. c. 7. c. 5. c. 28.

Jac. 5. parl. 4. c. 27.

David. 2. c. 11. c.

45.

Edward. 1. An. 3. c.

1.

IT is statute, that justice salbe done commonlie to all pure men, and rich men: and principallie to all religious, and kirk-men: and also to husband men.

2. And that they salbe kept fra all oppressions & burdings, with the quhilk they haue bene trubled in time bygane: and that na man be herboured vpon them, to the destruction and skeath of them and their gudes.

3. And that na Earle, Baron, nor freehalder, or other person travelland throw the cuntrie: fall ride with moe persons, than he may sustene in meat and drink, vpon his awne proper expenses:

4. Not

4. Nor fall nocht lodge nor harbour, bot in places quhere he finds horse meat, and mans meat for his silver: swa that he fall liue vpon his awne expenses, and nocht be reaf of other mens gudes.

5. Gif anie man be ane breaker of this statute; and ane certaine and notorious complaint be made agains him: he sal be taken, and punished be the Schiref of the cuntrie, as ane breaker of the Kings protection: vntill he mak full satisfaction to the partie.

ANE MINOR SOULD NOCHT PLEY,

anent his heretage. CHAP. 39.

NA person within lauchfull age, may nor sould be pleaded (*pleyed*) in anie pley or action of land (*heretage*) be the brieve of richt: Because things done be him, may na wise be sure and stable, before he come to perfite age. For gif ane minor sal be compelled to answer anent his heretage: all sic judgement sould be bot mockerie and scorne. *Lib. 3. c. 32. 17.*

B 3





THE FOREST
LAWES, VVHEREOF
THE AVTHOR IS ALLEGED
TO BE KING WILLIAM, IN ANE AVLD
BVKE PERTEINING TO ST. DAVID LYNDISAY
of EDZELL, Knicht, and ane of the Sena-
tours of the College of
Iustice.

OF THE ENTRES OF BEASTS, WITH-
in the VVood.

CHAP. I.

*Iac. 5. parl. 4. c. 11.
Iac. 6. parl. 14. c.
210.*



It is defended and forbidden, that
anie mā dwelland within the Wood,
or anie other, fall enter within the
close, or hanite parts of the Wood,
with their beasts, or cattell; Except
they haue licence fra the Forester: be
fiftene dayes before the feast of *Saint
John the Baptist*, and be fiftene dayes
after the said feast, vnder the paine,
and vnlaw of aucht kye.

2. And after that time is by past, the aucht kye fall nocht be
payed: except the beasts be found be the keiper of the Forest,
with ane present keiper; haueand fire, ane horne, or ane hound.
Or gif they be found in the Forest in time of nicht lyand, haue-
and ane horne, or ane hound quhilk is called *VVarset*: in that
case lauchfull witnes being brocht (*to testifie the trueth*) aucht
kye sal be payed.

THE

THE BEASTS PERTEINING TO THEM

quha dwels beside the forest. CHAP. 2.

GIf anie man dwelland beside the forest, be vse and custome, suffers his cattell to enter in the forest three times : he shall giue to the forester for ilk time, foure pennies. And gif they be found the fourt time, albeit na keiper be present ; lauchfull witnes being brocht , aucht kye salbe payed.

2. And gif the forester is allane : he shall mak ane crosse in the earth, or in ane tree, quhere the beasts are found : and blaw his horne thrise ; and driue the beasts to the Kings castell : and swa aucht kye salbe payed.

OF CATTELL PERTEINING TO BVR-

gesses, or to the Kings natiue bondmen.

CHAP. 3.

Item, gif the beasts of Burgeses are found in the forest : for ilk time salbe payed foure pennies.

2. And gif they be found the fourt time, lauchfull witnes being brocht , aucht kye salbe payed.

3. *Item*, for cattell or beasts perteing to the Kings natiues, thrise found within the forest ; for ilk time, salbe giuen to the forester ane pennie.

4. And gif they be found the fourt time, the bodies shuld be corporallie imprisoned in the Kings prison, be the space of fourtie dayes.

OF SCHEIP. CHAP. 4.

Item, anent schiep found in the forest before witnes, quhither there be ane keiper or nocht, the forester, may tak ane scheip to his awne vse of the flock.

2. And of the scheip of the kings husband men, and of his bondmen : the forester shall haue ane pennie, allanerlie.

OF GOATES. CHAP. 5.

GIf goat be found in the forest thrise : it is lesome to the forester for ilk time, to hang ane of them be the hornes, vpon ane tree.

2. And

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2. And for the fourt time, to slay ane of them, and to leaue in that place the bowels: in taken that they were found in that place.

OF SWINE. CHAP. 6.

ANent swine it is ane approuen vse and consuetude, to defend and forbid publicklic in paroch kirkes, that they enter nocht within the Forests.

2. And gif they be found within the Forest be the Forester, after the said inhibition: it is lesom to him, for ilk time of three times, to tak ane to him self.

3. And gif they be found the fourt time, they fall be all taken, and imbrocht to the Kings vse.

THE PANNAGE FOR SWINE.

CHAP. 7.

GIf it happens that there be great abundance of akecornes within the Kings Forest, the Forester fall summon the Burgeses, and Landwart men; that they bring their Swine: to the effect, that the King may haue his pannage for them (*ane certeine duetie for the pasturage of their swine, within his Forests*)

2. And this is the forme and maner of the pannage: for ilk cyndire, that is, for ilk ten swine, the King fall haue the best swine: and the Forester ane hog. And gif there be fewer then ten: the King fall haue na thing, bot the Forester fall haue ane hog, and for ilk auld swine, gif anie be, ane pennie. And gif they be all hogs; the Forester fall haue na thing, bot ane hog. And gif there be fewer hogs then ten: in that case, the Forester fall haue for ilk hog, ane half pennie.

OF HORSE. CHAP. 8.

• Or ane stud of horse.

GIf ^a horses are found in the Forest, after inhibition; it is lesome to the Forester, for the first time, to tak ane fole of ane zeare auld; for the second time, ane staig of twa zeare auld: for the third time, ane staig of three zeare auld: And for the fourt time gif they be found: all the stude salbe taken to the Kings vse. Item, for ilk tame horse, or ridden horse found in the Forest, foure pennies.

OF

The Forrest Lawes.

II.

OF WANES AND CARTS.

CHAP. 9.

GIf Waness or Carts are found in the forest, without licence: for ilk ane of them fall be taken, thirtie pennies. Bot gif they passe ane other way, before they be found be the forestar: they fall be quite and frie.

OF ANE MAN FOVND WITHIN THE

Forest. CHAP. 10.

GIf anie stranger be found within anie forbiddin place of the forest, & wil sweir vpon his wapens, that he knew nocht that way, to haue bene forbiddin; and that he knew nocht the right way: the forestar fall convoy him to the common way, and there fall suffer him to passe away without anie trouble. *Edward. I. An. 21. in the statute of trespassours within parkis.*

2. But gif he be ane knawin man, he fall be taken and convoyed to the Kings castell, and there without the ports of the castell: the forestar fall take before witnes, his vpmaist claith; and all quhilk is in his purse, fall pertain to the forestar: and his bodie fall be delivered to the Constabill, or Porter to be keiped, at the Kings will.

OF ANE MAN FOVND IN THE FO-

rest with grene wode. CHAP. 11.

GIf the forestar finds in the forest anie man, quha may be attached for grene wode, first he sould attach him, be twa pledges, gif he be found in anie place. *Iac. I. parl. 1. c. 34.*

2. Otherwise he fall leid and convoy him to the first or nixt towne, and there put him vnder pledges.

3. And gif that man be found thereafter with grene wode, he fall attach him, and compell him to finde foure pledges.

4. And gif he be found the third time with grene wode; he fall be presented to the virideer (*the keiper of the grene wode and grasse*) in the chief place of the keeping of the wode, and fall be put vnder aucht pledges.

5. After the third attachment, his bodie may be attached, and deteined in remembrance, that he is ane taker, or stealer of grene wode.

OF

The Statutes of,
OF ANE MAN TAKAND ANE AIK
tree. CHAP. 12.

GIf the forestar finds anie man without the principall wode, but zit within the pale or closure, heueand dune ane aik trie without the advise or deliberation of the forestar, or wiridier; he sould attach him, and cause him find foure pledges: and be the sight of the forestar, that aik tree sould be comprised: and salbe inrolled within the Role of the forestar or viridier; and fallbe put vnder sex sure pledges (*to make it furthcommand to the king, and to be punissed therefore*)

2. And gif he be thereafter found: the number of his pledges salbe doubled.

3. And gif he be found the third time; his bodie salbe taken, and deteined.

OF ANE HAREHOVND, OR MASTICH
found in the Forest. CHAP. 13.

GIf ane hairhound be found rinnand, to the hurt of the forest; he sould be taken, and presented to the forestar, or viridier: quha sall send him to the King, or to the cheif Justitiar of the forest.

2. And gif anie mastiche hound or dog, is found in anie forest; and he be nocht bound in bands: his maister or awner salbe culpable, as fidand him with his awne hand: and salbe put vnder sex pledges quhais names salbe inrolled: and also the forme and maner of the case.

LICENCE TO THE ANE WILD BEAST.
CHAP. 14.

All Bishops, Earles, or Barones, cummand to the King, at his command, and passand be the forest; may lesumlie take ane or twa beasts, at the sute of the forestar, gif he be present.

2. Otherwaies, he may blaw his horne; that he appeare nocht to doe the sam in thistecoullie.

3. And he may doe swa as said is; Returnand haim agane.

OF

OF ANE WILDE BEAST TAKEN

without licence. CHAP. 15.

GIf anie man takes ane wilde beast in the forest, without ane warrant : his bodie salbe arrested quhere ever he is found, within anie part of the forest.

2. And quhen he is taken, it sall nocht be lesume to the forstar, to deliver him : without speciall command of the King, or of his Justitiars.

3. Gif ane man sees anie malefactors, within the bounds of the forest, taking ane beast, and carying it away : he sould take and apprehend them according to his power.

4. And gif he may nocht : he sould raise the huy and the cry, quhilk gif he does nocht : he salbe in the Kings mercie.

OF FOGAGE. CHAP. 16.

Item, gif the King will set the gresse in time of fogage (*the quhilk is, fra the time of Alhallowmes, vntill the feast of S. Patrik in Lentron*) ilk beast sall pay aucht pennies for fogage : and ilk quyach, twa pennies.

OF HVNTING WITHIN THE KINGS

forest. CHAP. 17.

GIf anie hunts within the Kings forest, without licence : he sall pay ten ponds.

2. Gif anie free tenant having be vertew of his infestment, free power to hunt within his awne land, marchand neare, to the Kings forest : lets and suffers his dogs, to runne within his awne land ; and they follow the beast within the Kings forest : he may follow his hounds within the Kings forest , as farre as he may cast his horne or his dogleisch.

3. And gif it happens that the hounds, or dogges take the beast, quhilk they followed within the foresaid space : that man sall incontinent take with him that beast, and his hounds, without challenge of anie man.

4. And gif it sall happen him , in following his hounds, or dogges within the forest : to overpas or to exceide the foresaid space ; he sall pay aucht kye : and sall tine his hounds, with the beast.

5. And

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5. And quhafoever fall follow his hounds or dogges runnand at ane beast, fra his proper land within the Kings forest: he fall remoue, and lay aside his bow and his arrowes, gif he anie hes: or he may bind the bow and the arrowes with the bowstring. And gif the hound slayes the beast: he with his hound and the beast fall pas away quite and free, but anie challenge of the King, or Lord of that forest.

THE PAINE OF SCHERING OF *grasse or grene wood.* CHAP. 18.

Gif anie man cuts greene wood within the forest: he fall pay ane vnlaw, of aucht kye.

2. Gif anie man vses to cute, or scheir grasse, or anie other thing in the forest: for ilk time of three times, he fall giue aucht kye; And for the fourt time ten ponds.

OF ANE WAYF BEAST WITHIN *the forest.* CHAP. 19.

Quon. Attach. c. 48

Gif ane wayf beast is found in the forest: the samine sould be kept, and proclaimed at three courts: and in the fourt court salbe adjudged to the King, as escheit.

2. Bot gif the awner, and Lord of the beast compers: and offers to proue lauchfullie, that the samine pertains to him: the finder of the beast fall make publication thereof: at the chiefmanour place of all steedis, on ilk side thereabout: that the samine may be made knawen to all and sundrie, quha will challenge and follow the beast that is swa found.

OF WILDE BEASTS FOVND DEAD *in the forest.* CHAP. 20.

Gif anie wilde beast is found wounded or dead within the forest: and it is nocht knawen quha hes done the samine; inquisition salbe made in the next court.

2. And in the meane time, the finder thereof salbe attached vnder sure and sicker Borghis, vntill cognition salbe taken of the transgression and trespass.

3. And the flesch of the beast fund, salbe send to the house, and hospitall of the leaper folk: gif there be anie thereabout in the cuntrie. Otherwise, gif there be na sic infirme persons nereby:

by: the samine flesh shalbe giuen to pure and seik folk.

4. And the head with the skinne, and the arrow gif anie be found; shalbe presented to the Justitiar, quhen he cumes to his Justice aire.

OF TRESPASSES COMMITTED WITH-
in Forests pertaining to Barones. CHAP. 21.

Item, gif anie man commits anie crime or trespas, in ane Forest, pertaining to anie Baron: being infest be the King, in free Forest: and with inhibition that na man doe anie trespas in the samine; vnder the forfait, and pane of ten pundis; the samine trespassour being lauchfullie convict of sic transgression: at the sute and instance of the Baron, in the Kings court: he sall pay for his fault to the King, ten pundis. *Edward. 3. An. 1. c. 8. de delictis in foresta commissis.*

2. And the Lord of the Forest, or his Forester, sall haue the horse, & all that was found with the said trespassour, trespassand within the Forest: to be bruked and inioyed in time cumming.

3. And gif the Lord of the Forest, will not persew the said crime, or trespas: or zit dissembles for particular affection; that he knaves anie sic crime or trespas: Neuertheles, the king hes gude richt, and titill to aske ten pundis; for breaking of his command, and inhibition foresaid,

4. Attour gif the Lord of the Forest receaues anie money; or anie other gude deede fra the said trespassour: and therefore heilds and conceales the samine crime and fault: and will not follow or persew the samine crime: the king hes gude action and richt for ten pundis, agais the samine Lord, swa desistand to persew the said crime and trespas.

OF TRESPASSOVS WITHIN
the Forest. CHAP. 22.

GIf anie man sees anie misdocrs, or malefactours in the Forest, take and anie wild beast & carieng him awaie: he sould take the gif he may: And gif he may not: he sould raise huy & crie to the narrest townes, beside the Forest. And to pas and manifest it to the Kings Forester: And gif he does not; he sall remaine in the kings hevie mercie.



KING ALEXANDER ^{2.} HIS STATUTES, HE VVAS SONNE TO

KING WILLIAM, HE BEGAN TO

Reigne in the zeare of the warld 5184. Of

Christ, 1214. And Reigned 35.
zeares.

OF HUSBANDRIE.

CHAP. I.



IN the zeare of grace 1214. at *Scone*,
Alexander be the grace of GOD
King of *Scots*, with common con-
sent of his Earles, for weill and pro-
fite of his Realme, decerned and
statute. That all husband men, in
the famine places, and townes, in
the quhilkis the zeare bygane, they
haue remained, and dwelled in the
famine places, this zeare fall labour,

and vse husbandrie: and fall na wayes staie to vse their awne
profite. And fall begin fiftene dayes before *Candilmes*, to teill
and saw their lands.

Inc. 1. parl. 2. c. 41.

parl. 5. c. 81.

Philip and Mar.

Ang. 2. & 3. c. 2.

Elizabeth. An. 1. c.

2.

2. *Mairouer*, it is statute be the King and his Nobilitie, that
landward men, quha hes mae nor foure kye, for the sustentati-
on of the life of them, and theirs: fall take land fra their maisters,
and fall labour it be teiling, and sawing.

3. All

3. All husband men, quha hes in possession less nor foure kye, albeit they can not labour, and teill land: zit with hand and floote they fall delue the land, and saw als meikill as they may, for sustentation of the life of them and thers.

4. Gif they haue oxen (*and not land*) they fall sell them to these quha labours the land be teilling and sawing.

5. Earles and Barones in quhaes lands sic men dwells, quha will not doe the samine: fall pay aucht kye to the king.

6. Gif anie vaill halde and of the king, neglects to doe this: he fall gif to the King ane amerciament, aucht kye. And gif he holds of ane Earle, he fall pay to him als mony.

7. And gif he be ane servant, his maister for the first time, fall take for ane amends, ane kow and ane scheip: and thereafter fall compell him to doe agains his will, quhilk he wald not doe with his will.

8. In this case, it is to be eschewed, that it happen not to them, that quhilk is written in the Proverbs (*of Salamon*) the swere and slowfull man will not plowe, nor labour, be reason of Winter: therefore he fall begge in Sommer, and haue na thing.

*Proverb.c.20.4.
2. Thessal.c.3.10.*

9. Bot rather conforme to the sentence of the Apostles, they fall work with their awne hands, the thing quhilk is gude that they may haue, to giue to them quha are in necessitie.

VPTAKING OF DITTAY, AND PV- nissing of malefactours.

CHAP. 2.

IT is statute be king *Alexander* with the counsell, and consent of venerable Fathers, Bischops, Abbats, Earles, Barones, and his gude subiects. That the Justitiar of *Lothiane*, fall make diligent and privie inquisition anent the malefactours of the cuntrie, and their reseters: be the eath of three gude and leall men: and be the eath of the stewards of ilk towne, of ilk schirefdome, within his jurisdiction: Except in *Galloway*, quha hes their awne speciall and proper Lawes.

2. And gif he finds anie, be that inquisition lauchfullie made: he fall cause them to be surelie attached incontinent, be the Kings servants, with the helpe and assistance of the men of the

Stat. 2. Rob. I. c. ult

The Statutes of,

the Lord of the toun; to ane certaine day and place, before the Justitiar: to thoill ane allie of their neighbours.

3. Swa that gif it happens anie of them to be convict be the assise for murther, reif, or sic other felonies perteining to the Kings crowne: all his cattell, without contradiction, salbe brocht into the kings vse.

4. And gif anie be convict of theift, or manslaughter, or sic felonies perteining thereto: all his cattell found in his Lords lands, fall perteine to him.

5. It is statute be the king, that na man salbe attached hereafter be the kings servants: bot he quha salbe given vp in dittay, be the said inquisition for some felonie.

6. All men convict for thift, or slaughter before the Justitiar; salbe delivered to the Barones or their baillies, to doe justice vpon them in their free Baronies, without anie ransone or remede except the kings grace and remission happen to be given.

Quon. Attach. c. 67 7. Item, gif anie Knicht is indited be the said inquisition, for anie trespasse: he fall thoill ane allie of Knichts, or of heretable freeholders.

8. Mairouer, they quha makes the attachment, sould nocht intromet, nor carie away, be reason of their attachment, anie gudes or geir perteining to him, quha is attached. Nor fall not consume or destroy anie part thereof. Bot the Lord of the toun, or his steward, fall furnish and susteine them ane day and ane nicht, vpon his gudes, quha is attached.

THE ASSIE OF LIFE AND LIMME, or of land, sould be of freeholders. CHAP. 3.

IT is statute be king *Alexander* at *Stirling*, with consent of his nobles, as well kirkmen as others. That hereafter there fall na eath be made anent the tinsell, of life, of limme, or land: bot be faithfull and gude men, and free holders be chartours.

OF THEM QVHA MAY BE REPLEDGED. CHAP. 4.

Stat. I. Rob. I. c. 11 **I**T is statute be the king, with consent of his communitie, that na Bischop, Abbat, nor Clerk, Earle, Baron, or anie other within this Realme, fall repledge anie person as his awne man; nor

nor fall desire anie person to be letten to borgh to him (*upon caution, or ane borgh to be found be him for his man*) quha is challenged to doe richt for quhatsoever crime, except he quha is challenged be his liege (*bondman*) or natiue (*borne man*) or dwelle and vpon his land, or of his familie or houshald.

2. And gif it may be acknowledged be leill men of the cuntrie: that the malefactor is nocht his liege man, nor Natiue, nor dwelland within his land, nor in the familie of him quha vles the replegiation: bot that he wald repledge him for cause of hire or profite (*as great men hes used to doe, takand buds from the malefactor, as wax, pepper, cumine, or sic other profitis*) he sal be in the kings mercie.

OF THEIFT COMMITTED TO RELIGIOUS men, and to them quha sould nocht fecht.

CHAP. 5.

Item, it is statute be the King, gif anie thing is thifteouslie stolen fra religious men, Clerks, Widowes, Prebendaries, or fra sic men quha may nocht, nor sould nocht fecht. The complainer fall come to the Lord of the land, or to his baillie: And he or his baillie fall come to the Schiref of the cuntrie, and they without delay, at ane day assigned to them be the Schiref, diligentlie and faithfullie fall inquire be faithfull men, neighbours, and be the report of three Barones; quha is that malefactor.

2. Gif the malefactor is found and convict, be that inquisition, and report: he fall suffer and vnderlie just judgement.

3. Gif he is fugitiue: the gudes and geir taken fra the religious men, the widowes and others complainers, sal be restored to them furth of the gudes perteing to the malefactor fugitiue: And the super plus of his gudes fall perteine to the King, or others, as affaires of the Law.

4. And gif that malefactor is within the kings domains, or Thanages: the Schiref of the cuntrie, without delay, fall make inquisition and report in maner foresaid.

OF THEM QVHA FLEIS TO HALIE

kirk. CHAP. 6.

IT is statute anent theifes and reifers, quha fleis to halie kirk, that gif anie of them moved with repentance, confelles there

The Statutes of,

Stat. Wilh. c. 5.

Stat. Rob. 2. c. 9.

Iac. 3. par. 5. c. 35.

Iac. 5. par. 4. c. 22.

Edward. 2. An. 9. c.

10.

Henr 8. An. 27. c.

19. An. 32. c. 12.

Exod. 21. 13.

Deuter. c. 19. 3.

Iosua. c. 20. 3.

that he hes heavelie sinned, and for the loue of God is come to the house of God, for safetie of him self: he fall haue peace in this maner; that is, that he fall nocht tine life nor limme: bot quhat he hes taken fra anie man, he fall restore same kill to him; and fall satisfie the King according to the Law of the cuntrie.

2. And swa fall swere vpon the halie Eu-angell, that there- after he fall never commit reif, nor theift.

3. And gif he may nocht satisfie the King: he fall fulfill the rest of the points foresaid: and peaceablie fall passe furth of the Realme, vntill he be reconciled to the King.

4. Bot gif anie of them, quha fleis to the kirk, will declare himself innocent: and alledges that he feared the scharpe and severe power of the magistrat: and desires that it may be lesome to him, to purge and acquite him self be the Law: he fall passe in peace to the Kings court; and there fall find pledges to him quha challenges him. And fall passe in peace, gif he purgette him self conforme to the Law of the cuntrie.

5. And gif he is convict justlie, and lauchfullie of the crime, quhereof he is accused: he fall suffer the Law of the realme competent for his fault.

6. And gif anie of them, quha fleis to the kirk, confelles him self to be innocent; and for povertie may nocht find borgh nor pledges: he fall acquite him self in anie sure and convenient place, as the King or the Bischop fall think best. And gif he be fund cleane: he fall passe in peace. And gif he be filed, he fall be punished according as he is worthie.

7. Mairour manslaughterers, traitours to their maisters, and they quha are challenged of murther, or treason; salbe lauchfullie accused thereanent: and gif they in maner foresaid fle to the kirk: the Law foresaid salbe keiped and observed to them.

THE CHALLENGE OF THEIFT, AND

abrogation of the dome, be water and irn.

CHAP. 7.

GIf ane man accuse ane other of theift, or of roberie: and the defender is willing to passe to ane assise; gif he is clenged be the assise: he fall passe quite, and the accusar fall be in the Kings mercie.

2. And gif he is filed: Justice salbe done vpon him.

3. And

3. And hereafter (*in all time comming*) na judgement nor dome salbe done be water, or irn, as hes bene vsed in auld times.

OF DISSAISING WRANGOVS LIE DONE.

CHAP. 8.

GIf anie man complaines to the King, or his Justitiar, that his maister, or anie other man hes vnjustlie, and without order of Law ejected him furth of his tenement, in the quhilk he was vest and saised; and findes ane pledge to persew his complaint. the Justitiar, or Schiref, be the Kings precept, or the Justitiars, fall cause cognition to be taken, be gude men of the cuntrie, gif the complainer sayes richtlie; and hes ane just cause to complaine.

2. And gif it be fund and prouen, as he sayes: the Justitiar, or the Schiref fall cause him to be repollesed in that thing, quhereof he was dispollesed. And the committer of the ejection, salbe in the Kings mercie.

3. And gif ane Knicht, or anie other commit the ejection: he fall be in the Kings mercie.

4. And the moueable gudes (*spulzeit*) or the land (*quhere anent the ejection is committed*) with the damage and bygane profite in that samine court, fall incontinent be restored to him quha was disleased (*spulzeit* or ejected)

5. And gif it be found that the complainer hes vnjustlie complained: he fall be in the Kings mercie, and pay ane vnlaw of ten ponds.

OF ANE WOMAN CRAVE AND

hir dowrie.

CHAP. 9.

ANe lang pley and controversie was in the kings court, betwixt E. the relict wyfe of B. on the ane part, askand and craueand the third part of the lands of D. with their pertinents in name of terce, perteining to her justlie, and according to the Law, of the lands quhilkis pertained to B. her husband with the pertinenents: and H. the sonne to the Earle of S. on the other part, haueand the ward of the lands quhilkis pertained to B. allegeand that the said E. sould haue na part of the saidis lands, be the Law of the cuntrie: Because the mother of B. possesed that land as hir dowrie, after the decease of B. hir sonne, and swa B. was not vested in the saidis lands, the time of his decease, nor at anie time
of

The Statutes of,

of before. Nor zit be the consuetude of the Realme, ane wo-
man being widow, vses nocht to haue ane terce of sic lands. The
king with the consent of many noble men being present, hes
statute ane law to be keiped in all time conning within this
Realme, that all women being widowes, and haueand richt to
craue ane dowrie, after deceale of their husbands: In the like
case fall hereafter haue ane terce of sic lands, as of all the rest of
lands.

OF THE PERSEWER, QVHA PERSEWES *nocht in pleyes of transgression.* CHAP. 10.

Stat. Rob. 3. c. 29.

Stat. 1. Rob. 1. c. 74.

Iac. 5. parl. 4. c. 34.

QWhen ane man complaines of ane other, in anie quarell of
wrang and vnlaw; and findes pledges to persew: and will
nocht persew; he fall be in the kings mercie.

2. *Item*, gif anie man is convict be dome, and judgement;
he sal be in the kings will and mercie.

3. *Item*, gif he hes nocht pledges, that he fall persew, he is in
the kings mercie.

4. Gif he make faith, that he will nocht persew: he sal be ta-
ken and imprisoned for his trespas.

5. Gif anie man complaines vpon ane other in anie quarell,
as of life, and limme, and hes nocht pledges to persew: he sal be
keiped and deteined in ane reasonable prison, vntill justice be
done him.

THE PAINE OF ANE CONVICT IN *battell.* CHAP. 11.

Leg. Malt. 2. c. 7.

Gif ane man complaines vpon ane other, anent anie pley,
pertaining to the kings crowne; quhere anent singular bat-
tell may arise: gif he quha is challenged be overcome and win-
quised be battel: his pledges fall pay to the king nine kye, and ane
zoung kow: and fall satisfie his challenger, of his challenge and
clame, in sa farre as concernes him, and quhilk he hes eschewed,
and is made quite of.

ANENT STOLLEN CATELL.

CHAP. 12.

IT is statute be the King, anent stollen cattell, that in quhat-
somever Schirefdome cattell are stollen, and challenged: they
fall

fall be brocht in ilk Schirefdome to the places, to the quhilk king David ordained cattell, that are challanged to be brocht.

OF ANE THEIF, WITHOVT MAISTER,
or pledge. CHAP. 13.

IT is statute be the king, gif anie man is suspected of theift, in ane or twa Baroneis: and is found or apprehended without ane maister, quha will not find ane pledge for him: it salbe done to him, as to ane proven and condemned theif. *Lib. 1. c. 20. Stat. with. c. 1. David. 2. c. 17.*

THE SCHIREF SOULD BE PRESENT,
at the court of Bischops, Abbats, Earles, and others.
CHAP. 14.

IT is statute, that Bischops, Abbats, Earles, and freeholders, fall not hald their courts; except the Schiref, or his deputies be their present: to see gif the court is halden richtlie, according to the Lawes.

2. And in all their courts, foure pleyes salbe reserved to the kings court, that is, of reucising of women, burning, murther, roberie, otherwise called reif. *Leg. Male. 2. c. 11.*

3. And gif the Schiref being summoned, comes not to the Barones court; nor sends nane of the kings servants (*his deputies*) thereto: it is lesome to the Barone, to hald his court lauchfullie, without the Kings vnlaw.

4. Concerning other complaints and pleyes, all freeholders haue and power to hald court, may hald the samine without anie danger; reservand the kings amerciament, or vnlaw.

OF AMERCIAMENTS TO BE TAKEN
vp fra them, quha passes nocht to the Kings Hoist.

CHAP. 15.

Stat. 1. Rob. 1. c. 27.

THIS constitution was made at Perth, be King Alexander, be all the Judges of Scotland, vpon Thursday, in the first haill weeke of Lentron; after that the King was in Innernes, in warfare agains Donald Neilson of the Iles. Anent them quha remains fra the kings Hoist. That the king fall haue the Earles vnlaw: gif anie of them remains fra the kings Hoist. Bot it was not discusseid, how meikill it sould be.

2. Touching all others quha remains from the Hoist, that

is,

The Statutes of,

is of lands perteining to Bischops, Abbats, Earles, Barones, Knights, Thaness, quahalds of the king: the king allanerlie fall haue the vnlaw: that is, of ane *Thane*, six kye, and ane zounge kow; of ane *Ochiern*, fivetene zowes, or sex schillings: Bot the king fall haue onlie the ane halfe thereof: and the *Thane*, or *Knicht*, ane other half. Ane husband or zeaman, ane kow and ane scheip: quhilk likewise salbe divided betwix the king, the *Thane*, and the *Knicht*. Bot gif the *Thane*, or the *Knicht*, gaue them licence to remaine at haime; the hail vnlaw fall perteine to the King.

3. Na Earle, nor his servants may enter in the lands of anie freeholders haldand of the king, to take vp this vnlaw; bot onlie the Earle of *Fife*: and he may not enter as Earle; bot as Mair to the king of the Earledom of *Fife*, for vptaking of the kings deutes and richts.

4. Bot quhen the king, and the Earle be caueills, divides betwix them: the King, and the Earle, fall haue the ane half of the vnlaw: and the *Thane* ane other half.

5. Bot quhen the *Thane* commits ane trespass, in remaining fra the hoist: the hail vnlaw salbe divided betwix the king and the Earle.

THE LAW OF WATERS.

CHAP. 16.

THe assise and constitution, made be King *Alexander* at *Perth*, vpon Thursday before the feast of *S. Margaret*, and the Earles, Barones, and Judges of this Realme, that the streame of the water salbe in all parts swa free, that ane swine of the age of three zeares, well feed, may turne himself within the streame, round about: swa that his snout nor taill, fall not touch the bank of the water.

2. And the water sould be free, that na man fall take fisch in it, fra Saterdag after the Euening song, vntill Munday after the sunne rising.

OF THE DOME AGAINST GYLASCOPE.

CHAP. 17.

AT *Edinburgh* vpon Sondag next after the feast of *S. Dionise* in the chaptour of *Halierudhouse*, It was decerned be all the Judges

Judges alswell of *Scotland*, as of *Galloway*, anent *Gylascop Mak-scolan*, because he entered not his pledges, at the day assigned to him, for the entres quhereof at the day, and place he him selfe was pledge; that therefore he fall giue wades to the King, vntill he be payed and satisfied. And gif he may not giue wades according to the Kings will; he fall remaine as wade: aye and quhill he enter the pledges, quhilkis he promised: And gif he doe in the contrare: he fall remaine in the kings heauie mercie.

OF GVILDE. CHAP. 18.

GIf thy farmer puts anie guilde in the lands pertaining to the King, or to ane Baron: and will not clenge the land: he sould be punished as ane traitour; quha leades and convoyes ane hoist of enemies, in the Kings lands, or the Barones.

2. *Item*, gif thy natiue bondman hes Guilde within thy land: for ilk stock he fall giue to thee, or to anie other Lord of the land, ane Mutton, as ane vnlaw: and nevertheles fall clenge the land of the Guilde.

OF ANE FALSE CHARTOVR.

CHAP. 19.

HE quha is conuict to haue made ane false chartour, his hand *Lib. 4. c. 13.* salbe cut off.

2. Not onlie the hand of him quha committed the falsset, bot also of him quha was vpon the counsell of it.

PRIVILEGE OF LANDS, GIVEN

for almes. CHAP. 20.

IT is defended and forbidden be King *Alexander*, that nane of the kings officiars, take anie^a thing within lands giuen for almes: nor fra the labourers thereof to the kings vse. *a Sick as proues weis.*

2. Except sic things can not be found within the lands pertaining to the King or Barones.

3. And in that case, these things salbe taken at the sight of the Sergents of the Lord of the land given for almes.

RESETTERS OF THEIFT CHAP. 21.

QVha resets theift stollen fra anie man: he salbe esteemed as ane common theif, and salbe punished with the like paine. *Stat. with. c. 7. Jac. 6. parl. 1. c. 21. parl. 11. c. 101.*

RESTI-

The Statutes of, RESTITUTION OF DOWRIE.

CHAP. 22.

ANc Widow after the death of her husband, fall haue incontinent, and without all difficultie, hir dowrie and hir heretage.

Stat. Rob. 3. c. 20.
Henr. 3. An. 20. c. 1.

2. Nor fall giue na thing for hir dowrie, or heretage, quhilk hir husband and sche possesled, the time of the decease of hir husband.

3. And sche fall remaine be the space of fourtie dayes in the messuage of her husband, after his decease: after the quhilk time hir dowrie salbe giuen to hir: gif it be not giuen of before, or gif the messuage be not ane castell.

4. And gif sche cumes furth of the castell: ane other competent house salbe provided for hir: in the quhilk sche may honestly remaine: vntill hir dowrie be giuen to hir, as said is. And sche fall haue hir sustentation of the common gudes (*quhilk perteneid to hir husband*)

5. For hir dowrie, sche fall haue the third of all lands quhilk perteneid to hir husband in his lifetime: gif sche receaved na dowrie at the kirk dure, quhen sche was married.

ANE WIDOW MAY NOT MARIE

without consent of hir Lord.

CHAP. 23.

NA Widow sould be compelled to marie, gif sche please to liue without ane husband: Bot sche sould make securitie, that sche fall not marie without the kings consent, gif sche halds of the king: or without consent of hir Lord, gif sche halds of ane other then the king.

PAYMENT OF DEBT.

CHAP. 24.

Jac. 3. parl. 5. c. 36.

Leg. burg. c. 94. c.

95.

Henr. 9. An. 9. c. 7.

GIf the debtour, or his tennants (*husband men*) hes moueable gudes: first of all, they salbe distrenzeid for payment of the debt, to the creditour.

2. And gif they haue na strenzeabell gudes: the Schiref, and the Kings seruants, before the court rise, fall advertise the debtour, that for inlaik of moueable gudes, they are bound be the Law to sell his lands and possessions to satisfie the creditour within

in fiftene dayes.

3. The debtour not doing this within fiftene dayes: the Schiref and the kings servants fall sell the lands and possessions pertaining to the debtour; conforme to the consuetude of the Realme: vntill the creditor be satisfied of the principall summe, with damage, expenses, and intres.

4. And gif the lands are halden of the king: the Schiref fall infest the buyer be ane precept, quha buyes them.

5. And gif they be halden of ane Baron; and he will buy them: be the Law he sould haue them.

6. And gif ane other man will take them vpon the Kings price: the Schiref fall infest him in sic forme, as the debtour possessed them with all his richt and pertinents whatsumeuer.

7. And at command of the Schiref, the Baron fall receaue the buyer to be his tennant, and fall giue him sic possession as the debtour had, without anie question or impediment.

WREK OF THE SEA. CHAP. 25.

GIf anie schip or fercost, or other veschell arrives: and in hir is found ane quick leve and man, dog, or cat, and cumis quick furth of that veschell: that veschell fall not be judged, nor decerned as schipwrak: Bot salbe keeped with all hir gudes, at the sight of the Schiref, Crouner, or of the Kings Baillie: and salbe delivered in the hands of the induellars of that towne, quhere the gudes were found: swa gif anie man cumis and challenges the gudes; and proues them to be his gudes, or his maisters: or to haue bene tynt in his possession: they sould be restored to him within that zeare and day, without delay. And gif na man challenges them, they fall pertene to the King: And the Schiref, or the Crouner, or the Baillie, fall intromet with them; and deliver them to the indwellaris of the towne: quha salbe answerable for them before the Justitiar, as sea wreck pertaining to the king.

2. And gif wreck pertienes to anie other, then the King, he fall haue the wreck in the samine maner.

3. And gif anie man does otherwaies, and is conuict thereof: he salbe imprisoned, and salbe ransomed at the kings will.

Ex lib. perthensi.
Edward. 1. An. 3. c.
4. Edward. 2. An.
17. c. 11.

IN MY DEFENCE

GOD ME DEFEND.



IN THE NAME OF GOD,
AMEN.

ROBERT,
BE THE GRACE OF
GOD, KING OF
SCOTS.

IN THE THRETTEN ZEIRE OF HIS
Reigne, upon monday nixt after the feast of S. Andrew the Apo-
stle, with continuation of dayes ; In his Parliament halden solemlie
at Scone, with Bischops, Abbats, Piores, Earles, Barones, and
others his noble men of his Realme, conveined anent divers affeires
tuiching him and his Realme: to the honour of God and halie kirk, to
the weill of his Realme, to the defence of his people ; and to the esta-
blissing and maintenance of peace within his Realme : with common
advise and consent of all the Prelates, and freeholders for saidis, and
hail communitie : made, statute, and ordeined, the statutes after follo-
wing ; to be inviolable, and perpetuallie kept throw all his Realme,
and be all his subjects.

ANNO TATION.

King Robert, the first of that name, was sonne to Robert Bruise, Earle of
Carrik: and nephew to Robert Bruise, quha contended agains Iohn Ballioll
for the crowne of this Realme: of the progenie of David Earle of Huntington:
quhilk David was brother to king Malcolme 4. And to king William, kings
of Scotland. And the said Robert the first, begude to Reigne, In the zeire of
the creation of the world, 5276. And of our Lord, 1306. And reigned 24. zeires.

OF

King Robert the first.
OF THE FRIEDOM OF THE KIRK,
and kirkmen. CHAP. I.

20.



IN the first, it is statute be the king, *Stat. with. c. 32.*
that the halie kirk of Scotland salbe *David. 2. c. 42.*
defended and mainteined in all
things conforme to their richts
and liberties.

2. And that the halie kirk and
trew religion salbe mainteined, &
keept from all oppressions, bur-
dings, griefes, quherewith it hes
bene burdened and grieved of be-
fore. And it is commanded that na man be herbered or lodged
in the houses or granges of Religious or kirkmen, in anie time
hereafter, to the destruction of them, and their gudes.

IVSTICE SOULD BE MINISTRED
equallie to all men. CHAP. 2.

IT is the kings will, and he commands; that the common Law,
and cōmon Justice salbe done alsweill to pure as to riche: con-
forme to the auld lawes & liberties vsed of before in auld times. *Deuter. c. 16. 19.*
Exod. c. 23. 3.

MEN CONDEMNED TO THE DEATH,
sould not be redemed. CHAP. 3. *Levit. c. 19. 15.*
Proverbs. c. 24.

IT is statute and ordeined, gif anie man in anie time cumming,
or bygane, quhat condition or estate he be, is convict, or attain-
ted of slauchter, reif, or of anie other crime tuiching life & limme,
common justice fall be done vpon him without anie ranson. *23.*
Iac. 2. parl. 6. c. 13.

2. Saife and the kings power; and also the liberties speciallic
given and granted be the king that now is, and his prediceffours,
to the kirk, and kirk men, and other Lords.

OF TRANSGRESSIONS DONE BE
them, quha cumis to the Kings Hoiſt. CHAP. 4.

IT is statute and ordeined, anent them quha cumis to the kings
Hoiſt: That gif anie of them, of quhat estate or condition he
be, commits slauchter, reif, theft in ane other mans land, in cum-
ming, remaining, or returning: salbe therefore indited to com-
peir before the Justitiar. *Iac. 3. parl. 17. c. 81*

2. And the complaint of him quha enters, salbe receaved in

D 2

fic

The first Statutes of,

Stat. Wilh. c. 18.

In ane maner: the Ballie or Judge, within quhais jurisdiction the malefactor dwelis, sall haue ane command of the Justitiar, within quhais Justitiarie the crime is committed; to attache the transgressor to compeir to answer to the complener, in the place quhere the crime was done, als well anent the skeath done to the partie, as to the Kings inditement (*and accusation or instance*)

3. And he salbe punisshed conforme to the maner & quantitie of the crime, as affaires of Law: because the crime can not be weill tried in ane other place.

HOW THEY QVHA CVMIS TO THE

Kings hoist, salbe furnished. CHAP. 5.

IT is statute and ordeined, that all they quha passles to the kings hoist, for defence of the Realme, salbe reasonable serued for their sustentation vpon their expenses, and for their money: according to the price of the market of the cuntrie, quhilk they passe throw.

2. And in all places quhere they passe, they sall take na thing without the sight, of the Baillies or narrest neighbours.

3. And gif the Baillies may not make them to be answered, nor be serued for their money: they sall take na thing, bot onlie their sustentation: without any waisting vnder colour of bying, as they wald it not to be verified before the Justitiar, without all fraud or gyle.

4. And gif they doe otherwaies: that transgression sall be esteemed as reif and roborie.

5. Ilk Lord (*dominus*) sall come to the hoist stuffed, and furnished with cariage and victuals as he wald be serued.

6. And gif he sould come fra places farre distant, swa that he may not cause victuall to be caried: he sall come weill furnished with siluer to bye viewers for his sustentation, and not in hope to burding the cuntrie quhereby he passles, without making of payment (*for that quhilk he takes*)

OF ESSONZEIS OF THEM QVHA

are indited. CHAP. 6.

NA man being indeited, salbe Etsonzeid before the Justitiar in his Justice aires; bot for the kings seruice. And for his warrant, he sall present and produce the kings letter: or for the Etsonzie quhilk in French is called *mal de lit*: that is bed euill.

2. Neuer-

2. Nevertheles, that ellsouzie fall not be receaved before the Justitiar in his court; bot in presence of them quha are send to make the ellsouzie: and then instantlie inquisition salbe taken be ane aillife, gif the sicknes be sa great, without fraud, that he quha is ellsouzied, may not compeir. And the like is to be said of his pledges.

3. And gif it be otherwaies attainted (*or proven*) he quha is ellsouzied, and his pledges, salbe americiat for his non compearance. And ane new day salbe assigned to him, to compeir in the samine maner, as of before.

TAKING OF POYNDS. CHAP. 7.

Item, it is statute, that intime cumming na man fall take ane poynd for anie debt auchtand to him selfe, within ane other mans land or heretage: bot gif the Kings Bailie, or the Bailie of the ground be present. *Lib. 4. c. 20. Henr. 3. An. 52. c. 4. c. 15. Edward 1. An. 3. c. 17.*

2. And that the poynd be measurable conforme to the debt, and quantitie thereof.

3. Na man sould be poynded for anie debt, bot the debtour, or his pledge.

4. Na man fall take ane distres or poynd without his awne fee, and heretage, for service aucht to him furth of lands halden of him: nor fall not take any superflous distres.

5. The poynds, and the distrelles quhilkis are taken, salbe retained, and remaine in the samine baronie quhere they are taken: or in sic ane place pertaining to the poynder, gif he any hes, quhere sic poynds or distrelle may remaine and be kept.

6. And gif he hes not ane place: they salbe kept in the nixt adiacent baronie of the samine Schirefdom: bot not in castellis, or fortalices.

7. And gif anie man is attainted, and convict in the contrare, he fall be in ane great americiament to the king, as it were of the breaking of the kings statute and Law.

THEIFES SOULD NOT BE REDEMED.

CHAP. 8.

NA man fall take theifebot for theift.

2. And gif anie man reccaues ranson for ane theif, and is cōvict thereof: he fall incurre ane great americiament to the king.

D 3.

And

The first Statutes of,

And mairouer he fall giue to him the fine or ranson quhilk he tuke fra the theif.

3. And he quha gaue the theiftbote : fall suffer the like judgment as ane proven theif.

4. And gif he quha receaved the theiftbote, hes not gudes nor geir to pay to the King his vnlaw : he salbe punifted with ane heaue imprisonment, at the kings will.

5. Saueand alwaie the fredom and liberties in sic cafes, giuen to Lords be Kings of Scotland , and be the King quha now reignes.

PLACES QVHERE COVRTS SOVLD

be halden.

CHAP. 9.

² *Gif anepledge is fund for it, to be entere.d.*

GIf anie beast, or other thing, is ³repledged to be entered in anie court : the Lord of that court, or his Baillie, fall cause that court to be halden in ane sure and sufficient place , quhere the beast, or the other thing repledged, may compeir with aile or suretie, and without anie trouble.

2. And quha is convict to haue done in the contrare : he fall be in ane amerciament of ten punds.

OF THEM QVHA MAY BE REPLEDGED.

CHAP. 10.

Stat. Alex. c. 4.

IT is statute , that na man repledge ane other man fra anie court, bot gif he be his liege bond man, or halds lands of him, or remanand in his service, as ane free man in his familie, or neir sibbet to him in blude or consanguinitie. And gif there is anie doubt hereanent : it salbe declared be ane allife.

CRUVES AND ZARES. CHAP. 11.

Angl. Reg. Henr.

7. An. 4. c. 21.

Henr. 8. An. 25.

c. 7.

Elizabeth. An. 1. c.

17. An. 5. c. 21.

Jac. 1. parl. 1. c. 11.

ITem, all they quha hes Cruves or Zares, stanks, or mylnis in waters, quhere the sea flowes and ebbes, or quhere Salmon, Troutes, Smolts, or the frye of anie fisch of the sea, or of fresch waters ascends and descends : that ilk hecke of the cruves, fall be at the least twa inche wide : swa that the frye of the fisch fall haue na impediment in passing vp, or going down : bot that they may freelic ascend or descend at all times.

2. And gif anie man does in the contrare, and is convict thereof; salbe imprisoned be the space of fourtie dayes : and neverthe-

vertheles fall pay ane great vnlaw.

3. And it is defended and forbidden, that na man take fisch or take Salmond or salmon Trouts, Grilfis, in forbidden time, vnder the pane contained in the auld statute.

4. And ilk Scherif fall cause this statute, to be kept in his Schirefdome, and in all the waters within the samine: vpon the Kings heaue amerciament: and he fall present, and exhibite the names of the transgressours before the Justitiar in his Justice court. *Quon. Attach. c. 87.*
Stat. Alex. c. 16.

AGAINS QVHOM THE BREIF OF NO-

vell dissaisin may be raised. CHAP. 12.

Quon. Attach. c. 53
Lih. 3. c. ult.

I*Tem*, because the breife of Novell dissaisin (*eiection spulzie*) in times bygan: was not vsed to be raised, bot agains the possessor, quhither he entered in possession be ane other mans infestment, or be dissaisin or wrang done be him self. It is statute, that in time cumming in the breive of dissaisin, salbe named the committer of the dissaisin, alsweill as his tennant or possessor, and he quha infest him (*his author*) gif he be leueand.

2. And gif divers and sundrie persons commits dissaisin; and the principall man happen to decease, before he quha is dissaised is restored to his former state and possession; he fall not time nor amit his action, or recoverance be the breife of Novell dissaisin: sa lang as he may find the possessor leueand: or anie man committer of the dissaising, or was present at the committing thereof. *Edward. 1. An. 3. c. 46.*

3. And albeit the possessor being infest, hes raised ane breife of warandice be reason of his chartour granted to him, agains him or is heires, quha infest him, induring the time of the dependence of the pley: nevertheles the assise fall proceed the first day of the pley.

4. And gif the assise delivers and pronounces in favours of the complainer: ilk ane of them quha committed the dissaisin, salbe oblissed to him quha is disceased, for his damage and skeathes, according to the time, at the quhilk he was deceased furth of his lands.

5. And quha soeuer salbe found to commit dissaisin with force and armour after the publication of this statute; he salbe imprisoned: and also pay to the king ane great amerciament at the kings will. And this statute of Novell dissaisin, to haue place and

The first Statutes of,
and force after the publication thereof; and not in anie time
preceding the same.

THE CLAME IN ACTIONS OF CAT-
tell taken, and of iniuries. CHAP. 13.

I*Tem*, in pleyes of taking of cattell, the zeare, day, and place,
quhere the cattell was taken and deteined, the number of the
cattell, with the damage and skeathes speciallie named.

2. And siclike in actions of iniurie, great or small, in all courts
salbe named and expressed, the zeare, day, place, quhere the in-
iurie was done, the forme and maner of the iniurie, and the dam-
nage and skeathes speciallie liquidat.

THE CLAME IN ACTIONS OF PRO-
mise not keeped. CHAP. 14.

I*Tem*, for same kill as diuers and sundrie complainers and de-
fenders, hes bene hurt and damnified in many courts of this
Realme, be exceptions and cautellis not allowable: It is statute,
that in all pleyes of convention (*betwix parties*) the libell sall not
be challenged, nor cassin in any court: swa that the complainer,
or his preloquutour sall libell, zeare, and day quhen the conven-
tion was made, and the forme and maner of the convention; and
at quhat time it was broken: and quhat damage and skeath he
hes receaved be the breaking thereof.

THE CLAME ANENT PROMISE
of debt. CHAP. 15.

I*N* pleyes of debt, sould be named and exprimed, the zeare,
day, the quantitie of the debt, the cause for the quhilk it is
awand, and the time at the quhilk it sould be payed, with the
damage and skeathes, speciallie modified.

THE CLAME IN PLEYES OF TRANS-
gressions. CHAP. 16.

NA exception or defence sould be challenged; nor the de-
fender sould not be esteemed as not defending (*as not com-
per and to defend*) sa lang as he or his preloquutour defends *tort
and non reason*, that is, *wrang and unlach* (*that is to haue done na
iniurie, nor unreason against the Law*) And also defends him selfe
againis

against the damage and skaith libelled and modified against him be the complainer.

2. And the same maner of defence shalbe vsed, quhen ane man is challenged in ane other mans court; and desires to be repledged to his maisters court: and defends not the principall challenge layed to his charge, nor answeres na thing thereto, bot gif he please.

3. Saife and the Law and consuetude of Burghis, quhilk is, to defend preciselie *torte* and *non reason*, that is *wrang* and *vnlaw*: without any replegiation of the defender to his Lords court.

THE MANER TO DEFEND IN
judgement. CHAP. 17.

THe defender or his preloquutour, sould not answer; before the complainer or his preloquutour, hes spoken and said all, or be required to speake and keipe silence: swa that he sail not be trubled or prejudged to speak ouer hastelie.

THE MANER OF DEFENCE IN BRIEFS
of richt, mortancestrie, and novell dissaisin.

CHAP. 18.

Lib. I. c. 18. c. 19.

ITem, in the brieft of richt, the defender or his preloquutour sould defend him against the clame of the persewer, after the first reading of the brieft: bot he sould not speake any thing sa lang as the persewer or his forspeaker hes any thing to say against him.

2. The defender nor his forspeaker, sail not be judged as not defendand (*or not compear and to defend*) nor sail not be americiat or vnlawed (*for non compeirance*) sa lang as he defends him selfe contrare the injurie, force, and richt alledged be the persewer, before he passe furth of court.

3. Siclike in the brieft of mortancestrie, and in the brieft of Novell dissaisin, the defender nor his forespeaker sould not defend him against the injurie, or injurious detention (*of his lands*) or dissaisin, nor zit to speake anie thing before the brieft be read. Bot after he hes hard the brieft, he may speake as he thinkes gude.

NVRISCH-

The first Statutes of,

NVRISCHING OF PEACE AND LOVE.

CHAP. 19.

Iac. 1. parl. 1. c. 2.

Iac. 2. parl. 6. c. 13.

Iac. 3. parl. 13. c. 1

92.

Iac. 4. parl. 2. c. 8.

I*tem*, for sameikill as after the death of king *Alexander* our predicetfour, king of *Scotland*, great discords and hardnes of harts is risen amongs the great and noble men of the Realme. The king for nurishing of peace & loue amongs the noble men of the Realme, and for mainteining of sure and firme peace amongs them, and their people ilk ane till other: defends and forbids that any man fall doe to ane other, any damage, hurt, or truble, nor to nane of his men: nor fall not procure the same to be done quietlie nor openlie.

2. Bot gif any will complene vpon ane other: let him persew conforme to the Law of the land.

3. Quha does in the contrare, and is conuict thereanent: he salbe challenged as breaker of the kings protection, and his statutes.

Iac. 1. parl. 2. c. 43.

Iac. 5. parl. 6. c. 83.

Iac. 6. parl. 8. c. 134

parl. 10. c. 10. parl.

14. c. 205.

Edward 1. An. 3. c.

25.

Henr. 8. An. 37. c.

10.

Philp. and Mar.

An. 1. 2. c. 3.

Eliz. An. 1. c. 7.

RAISERS OF RYMOVRS BETVIX THE

King and his people.

CHAP. 20.

I*T* is defended and forbidden, that na man be ane conspiratour or inventar of narrations, or of rumours; be the quhilkis, occasions of discord may arise betuix the king, and his people. And gif any sic man salbe found, and attainted thereof: incontinent he salbe taken and put in prison: and there salbe surely keeped, ay and quhile the king declare his will anent him.

JVDGES SOULD NOT MAINTENE

pleyes, nor take buddes.

CHAP. 21.

Exod. c. 23.

Iac. 6. parl. 6. c. 93.

Edward 1. An. 3. c.

25. 26. 28. An. 13.

49. An. 33. An.

26.

I*tem*, it is statute, and defended, that na Chancellor, Chalmers-lane, Justitiar, Schiref, Baillie, Judge, or Depute, nor their Clerks, fall be susteiners, or mainteiners of pleyes, or of complaints in the kings courts.

2. Nor they fall not take lands, nor na other thing as ane budde, to defend, or to delay ane other mans richt, by order of Law.

3. And he quha does in the contrare: and is conuict, and attaynt thereof, salbe punished at the kings will, and tyme his office induring his lifetime.

AGAINS

AGAINS QVHOM THE BRIEFE OF
mortanceſtrie may be raiſed. CHAP. 22.

Item, becauſe in time bygane, the brieſe of recognition had not place, bot onlie anent the death of ſex perſons, that is, of the death of the father, of the mother, of the brother, of the ſiſter, of the father brother, and of the father ſiſter. It is ſtatute and ordeined, that in time cumming, the complener ſhall haue the brieſe of recognition be reaſon of the death of his gudſchir, and gudame, as of his father, or his mother.

2. This ſtatute ſhall not haue place, bot to them quhais prediceſſours deceaſed veſted in lands, after the making thereof, and not for time bygane.

GVDES SOULD NOT BE TRANSPOR-
ted furth of the realme. CHAP. 23.

IT is ſtatute, and ordeined for the cōmon weill of the Realme, be reaſon the kings land and Realme is ſubieſt to weirfare; and therefore ſould not be made poore be analiers & ſellers of gudes and geir transported furth of the Realme. The king willis, and commands, that na perſon eccleſiaſtick of quhat ſumeuer ſtate or condition, haue and anie gudes within the Realme; nor na other laick or temporall man, haue and rents and poſſeſſions, ſhall preſume to transport or carie away, gudes, rents, or poſſeſſions, furth of the Realme, ay and quhile the king take order anent the weirfare in this caſe.

2. And gif any man within the Realme ſhalbe attaynted, and convict of ſic alienation, he ſhalbe adjudged to the kings priſon: and ſhalbe puniſhed at the kings will. And neuertheles ſhall rander to the king, the gudes or ſummes of money quhilk he transported, or ſend away furth of the Realme.

NA MAN SALBE PVT FRA HIS HERE-
retage, without ane brieſe pleadable.

CHAP. 24.

NA man ſould be eieſted furth of his free tenement, quherein he alledges him to be veſted and ſaiſed as of fee; without the kings pleadable brieſe, or the like brieſe.

Jac. 3. parl. 6. c. 41.

Henr. 3. An. 9. c. 29

An. 5. c. 3.

Edward. 1. An. 3. c.

24.

2. And

The first Statutes of,

2. And also except the partie be lauchfullie summoned to answer at ane certaine day, and place, anent his heretage.

MALITIOUS ESSIONZEIS SOULD

not be admitted.

CHAP. 25.

Item, it is statute and ordeined, forsameikill as divers and sundrie persons are delayed in their richt, be malicious, frivoll, and vnreasonable essionzeis, that is, be sic men quha compeires in court, and maliciouslie absents them selues; and thereafter causes them to be essionzeid the samine day: That na sic essionzie fall be allowed or receaved; bot that it be esteemed and halden as ane failzie, and default (*or contumacie*)

ARMOVR FOR WEIRFARE.

CHAP. 26.

Stat. Willh. c. 23.

Iac. 1. parl. 9. c. 120.

Iac. 2. parl. 13. c. 57.

Iac. 5. parl. 6. c. 87.

Eliz. An. 3 1. c. 4.

IT is statute, that induring the time of weir, that ilk laick landed man haue and ten pundis in gudes and geir, fall haue for his bodie, and for defence of the Realme, ane sufficient Acton, ane basnet, and ane gloue of plate, with ane speare, and sword. Quha hes not ane Acton and basnet; he fall haue ane gude habirgeon, and ane gude irn Jak for his bodie; and ane irn knapiskay, and gloues of plate.

2. And that ilk man salbe redie with his Actons and harnesses forsaide anent the octaues of pasche nixtocume.

3. And gif anie man haue and ten pundis in gudes and geir, fall not haue the kindes of armour foresaid: he fall tyne and amit all his gudes and geir: swa that the King fall haue the ane halfe thereof: and the Lord of him quha failzeis the other halfe.

4. Mairouer, the king commands that ilk man haue and the valour of ane kow in gudes, fall haue ane bow with ane schaise of arrowes, that is, twentie foure arrowes: or ane speare, vnder the paine foresaid.

Edward. 1. An. 13. c. 6. 5. *Item*, it is the kings will, that all Schirefs, and Lords of the land, fall make inquisition anent the premisses. And fall make wapinschawin after the octauis of pasche next following.

THE OFFICE OF SERGENTS. CHAP. 27.

Item, it is statute be the king, for confirmation of the Lawes of his predecessors, that na sergent within Burgh or Baronie, salbe
or

or sould be ane forspeakar, or aſtornay agains any man in court, quhair he is ſerгент. Nor may ſtand for any men in Law, nor in probation, nor in acquittance ſa lang as he is ſerгент:

2. Except in his maiſters action, or in his awne.

OF ANE PARTIE WARNED TO ANE
court, and not comperand. CHAP. 28.

I*Tem*, gif ane court is continewed to ane day; and the parties are warned be the Judge, to compeir that day and place, to the quhilk the court is continewed: to receaue & heare Juſtice done. And it happen any of the parties to be abſent that day: Judgment and Juſtice ſalbe done and given agains him in all cauſes.

ANENT THE ABSENCE OF THE
parties at the terme of probation. CHAP. 29.

Cif ane man challenge ane other in forme of Law, in anie court vntill the fourt court: in ane pley of debt, or of injurie, or of convention, or of tranſgreſſion, or of the breaking of the kings protection, or of breking of the kings lawes: and is charged be the court, to produce witnes; or other probation agains his partie adverſare: at ane certaine day and place aſſigned to him, be the Judge in plane court: And thereafter it happen that the defender being preſent at the day: that the perſewer failze is to compeir at the ſaid day and place. he ſall tine the benefite of probation (*and the terme ſalbe circumduced agains him*) and ſalbe vnlawed for the pledge found be him, and not followed furth.

2. And gif it happen that the perſewer being preſent, the defender is abſent, and makes ane default at the day and place of compeirance: the probation ſall paſſe fordwaird, and haue proces agains him notwithstanding of his abſence: and he ſall tine the principall action (*the cauſe ſalbe concluded agains him*) and he ſalbe vnlawed be reaſon of the pledge found be him, and not defended be him.

3. Gif baith the perſewer and defender is abſent: they ſalbe vnlawed, and ſalbe ſummoned be the Judge to the next court, to doe as Law will.

The FIRST Statutes of,
THE PANE OF THE JUDGE, QVHA
malitiouſlie continuis the court. CHAP. 30.

Continuation of complaints and quarells, may be done thrise, be reason of the weaknes of the soytours of the court, and inlaik of counsaile.

2. And be other three times, that is, be reason of the sicknes of the Judge: secundlie, in respect of the kings service: thridlie, for difficill effaires, or profite of the cuntrie, or be reason of weir-fare.

3. Bot gif the Baillic or Judge does this be partialitie, and malitiouſlie: he ſalbe puniſſed be the king: that is, he ſall tine all his gudes quhilkis he hes, and alſo his office: and his life ſalbe in the kings will.

4. And gif it be ane court of ane Earle, Baron, Knicht, or of anie other free halder: the Lord of that court ſall tine his court (*power to hald court*) and the ſamine ſall remane with the king, in all times cumming: except his ſpeciall grace (*and remiſſion*) intervene, and be granted to the treſpaſſour.

DAMNAGE AND SKEATH OF BEASTS.
CHAP. 31.

Exod. 21. 28

If ane beaſt perteining to any man, does ſkeath to ane other man; or hurts any man: the awner of the beaſt, ſall ſatiſfie the ſkeath, or ſall deliver the beaſt.

2. *Item*, gif ane mans ox hurts ane other mans ox, or wounds him; and the ox hurt and wounded happen to die: the ox quhilk did the ſkeath, ſould be ſauld; and the price thereof, with the dead carkatſe, ſalbe divided betwix the twa awners (*of the twa beaſts*) And gif the awner of the beaſt, quhilk did the hurt and ſkeath, knew and vnderſtude, that his beaſt was vitious and wicked, and did not cauſe keepe him: he ſall giue ox for ox: and ſall retene to him ſelf all the haill carkatſe of the dead ox.

3. *Item*, gif any man ſtrikes ane beaſt perteining to ane other man throw ire or hatred; he ſall pay the price thereof: and gif he pleaſe, he may receaue the dead carkatſe.

4. Bot gif he be chance, and not willinglie ſtrike or ſlay the beaſt: the ſamine ſalbe comprised according to the price thereof of the time of the ſtriking, or death, and the price with the beaſt ſalbe

salbe divided betwixt them: Or the beast being leueand, salbe restored, and the price divided betwixt them.

OF HIM QVHA IS PERSEWER, AND
hes not ane pledge. CHAP. 32.

GIf ane man complaines vpon ane other, anent ane com-^{Stat. Alex. c. 10.}
plaint pertening to life and limme: and hes not pledges for ^{Stat. Rob. 3. c. 29.}
him, that he fall perfew: he salbe halden in sure, and ane reason-
able prisson, vntill judgement be done.

ARMOVR SOULD NOT BE DISPONED
to enemies of the Realme. CHAP. 33.

FOrsameikill as be the Lawes, libertie or licence, is denied to all
faithfull subjects, to helpe or comfort the enemies, with anie
kind of armour, vnder the paine of death: Therefore, we in-
hibed and discharge all and fundrie our subjects, dwelland within
our Realme, of all estates and condition, in maist sure and strait
forme, that nane of them fall freelic giue, or for anie price sell or
transport, or carie bowes, arrowes, or anie kind of armour: or
horse, or other aimentis, to the cōmon enemies of our Realme:
be the quhilk hurt or skeath may follow, or be done to vs, or to
our confederates, or to our gude friends, vnder the pane of life
and limme: and of all that they may tyne anie maner of way a-
nent vs.

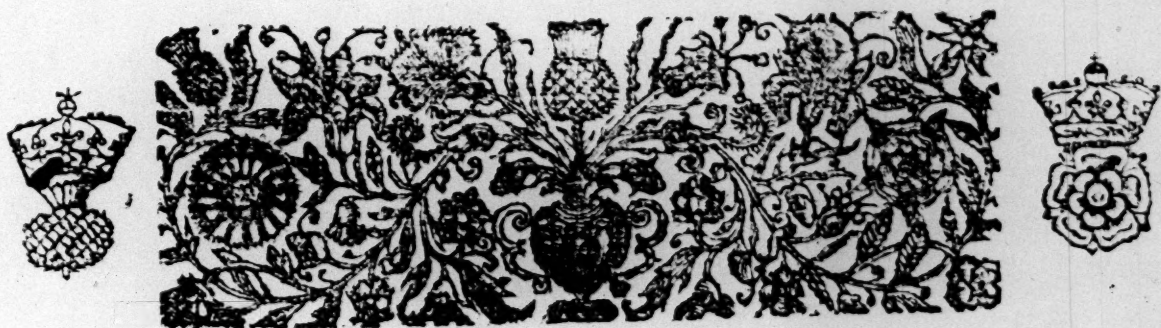
COMMAND ANENT THE PVBLICA-
tion, and obseruation of the Lawes. CHAP. 34.

Robert, be the grace of God King of Scots, to his Justitiars,
Schirefs, Provests, and Baillies, and to all and fundrie his
faithfull subjects, to quhais knowlege thir presents fall cume,
Greating: we let you to wit, that the statutes aboue written, are
made & affirmd be vs, with the expresse consent of Bischops, Ab-
bots, Priores, Earles, Barones, & of the countie of our Realme, in
plane parliament, halden at *Scone*, vpon monday next after the
feast of *Sanct andrew* the *Apostle*, with continuation of dayes, the
13. zeir of our reigne. Quherfore we cōmand & charg zou, that ze
fall cause the samine to be openlie red, & proclaimed within zour
jurisdictions, in zour courts to be haldin hereafter, & in other pla-
ces quher frequent congregation of our people fall happen to be.

The first Statutes of,

And that ze fall cause them to be keeped and observed inviolable, aswell in the courts of Prelates, Earles, Barones, and of all others, quahes power to hald courts: as in our proper courts. To quhom it is our will, that ze fall giue ane copie of our statutes, swa that they fall not haue occasion to excule them, be reason of ignorance thereof.





THE SECVND STATVTES OF KING

ROBERT THE FIRST.

OF DONATION OF LANDS MADE
to Religious men.

CHAP. I.



IT IS STATVTE THAT
it is not lesume, to giue land to any religious house, and thereafter to take it back againe, to be halden of the same religious house. *Henr. 3. An. 9. c. 36. Edward. 1. An. 13. c. 3. & 40.*

2. *Item*, it is not lesume to anie religious house, to receaue anie lands in sic ane maner fra anie man: and to giue the same back againe, to be halden of them, be him quha gaue them.

3. *Item*, gif anie man is conuict, to haue given his lands in sic ane maner to ane religious house; the gift and disposition is null: and the land fall returne to him quha gaue the same.

4. Gif Abbats, Priores, maisters or keepers of Hospitalls, or of other houses founded be the King; or be his predecessours, ane leis the lands to sic religious houses, given to them be the King, or be his progenitours: the same lands may be taken againe be the King in his awne hands, and possession; and deteined be him, at his pleasure, and gude will: and the buyer thereof fall never recover the same, nor the siluer, quhilk he payed for them.

The secund Statutes of,

5. *Ane summons.* Gif that house is funded be ane Earle, or be ane Baron, or be anie other man: he be quhais predicellours the lands aneid, was given and funded; fall haue ane^a brieft to the effect he may recover and receaue againe the lands aneid, as his awne heretage.

6. The forme of the brieft is this. The king to sic ane Abbat, greeting. I command zow, that lauchfullie, and without delay, ze fall cause B. restore to C. sic tenements or lands quhilkis he gaue to sic ane religious house, in name of free almes, and quhilk lands sould returne againe to him, be reason of the alienation made be N. Abbat, of the samine lands contrare the forme of the gift thereof, as is alledged.

7. The like is to be vnderstand, of lands given and disponsed for singing, or for licht in the kirk: or for sustentation of the pure: or for anie other almes to be susteined in anie chappell, quhilk fall happen to be fauld in maner forsaide.

8. And gif anie lands is given for singing, or for licht, or for help of the pure, or for anie other almes; quhilkis are not fauld nor aneid: bot the almes is abstracted (*and not done, nor righteously used*) be the space of twa zeares: action is competent to him quha gaue the lands, and to his heires; agais the tenant and possessor of the lands, to repete and seeke agane the saidis lands, as his awne propertie.

NA MAN MAY BE POYNDED, BOT *for soyt contened in his chartour.*

CHAP. 2.

Henr. 3. An. 52. c. 9. **N**A man infest be chartour, in time cumming sould be distrenzeid to make anie soyt in the Kings court, or in his Lords (*over Lords*) court; bot onlie conforme to his chartour.

2. And he quha is infest for certeine service to be done be him, sic as for free service, or for sameikill silver to be payed zearelie, for all other service; fall not be obliffed to do anie other service: by and attour the service contened in his infestment and chartour.

OF SOYT PERTEINING TO MANY *heires.* CHAP. 3.

Henr. 3. An. 52. c. 9. **I**Tem, gif ane heretage, for the quhilk ane soyt onlie sould be given, is devolved, and pertienes to divers and fundrie heires,

ascomportioners thereof: he to quhom the cheife and principall part of the heretage perteines, fall make ane soyt (*to the ouer Lord*) for him selfe, and for his companions or comportioners.

2. Because, suppose moe persons nor ane, are infest in ane heretage: for the quhilk ane soyt onlie fould be made: the ouer Lord fall haue bot ane soyt for all, and hail the said heretage: and can craue na man (*in respect of the pluralitie of the persons*)

3. And gif all the persons quha are infest, hes ane warant; quha fould warant and defend them: in that case they all fall contribute ilk ane for their awne part, to the making of that soyt.

POYNDING FOR SOYTS AWAND TO

our Lords in their courts.

CHAP. 4.

Item, gif it fall happen that ouer Lords poynd and distrenzie their vasselles contrare the constitution forsaide, for sic soyt: at the desire and complaint of the tenant, the ouer Lord salbe attached to compeir in the kings court at ane schort day, to answer there anent.

2. And ane essonzie onlie salbe granted to him, gif he be present within the Realme.

3. And incontinent the beasts, or other things poynded, salbe restored, and redilivered be the ouer Lords, to the tenant, or vassall: and fall remaine in their possession, vntill the pley be finallie ended betwix them.

4. And gif the ouer Lords, maisters of the court, quha tuke the poynd or distres, compeirs not at the day, to the quhilk they ware attached: or quhilk was granted to them, be reason of the essonzie made be them: command salbe given to the Schiref, that he fall cause them compeir ane other day.

5. At the quhilk day gif they compeir not: command salbe given to the Schiref, that he fall distreinzie them, and all their cattell, quhilk is they haue within his jurisdiction. And the Schiref fall answer to the king for the profites thereof.

6. And fall present the gudes poynded at sic ane day, as salbe assigned to him be the king: swa that gif the ouerlords compeir not at that day: the partie compleiner fall pas away, without any new day. And the cattell, or the other things poynded, fall remaine with the Schiref vndelivered: vntill the ouerlords recover that soyt, be consideration of the kings court.

7. And

The secund Statutes of,

7. And all sic poynding fall cease, and stay in the meane time: reserue and to the Lord of the court (*the ouerlords*) their right, to perfew for sic soyts in forme of Law, quhen they please.

8. And quhen the Lords of the court (*ouerlords*) compeirs to answer anent the saidis distrells or poynds: and is convict theranent: the vassalls be consideration of the Kings court, fall obtaine and recover the damage and skeath, quhilk they haue sustained be occasion of that poynding.

OF VASSALLS QVHA ABSTRACTS

their soyts fra their ouerlords courts.

CHAP. 5.

IN like maner, gif the vassallis abstracts their soyts fra their ouerlords, quhilk they sould make to them; the ouerlords fall receaue justice anent inquisition of sic soyts, be the forme of justice forsaide, and with all haist and celeritie of assignation of dayes and adjudication of poynds, in sic forme and maner, as the vassallis vses to recover their damage and skeath, contrare their ouerlords.

*Henr. 3. An. 52. c.
9.*

2. And this is to be vnderstand of the damage, and abstracting of soyts, done to the ouer Lords them selues; and the recovering thereof: and not done to their predicellours (*because actions anent soyt of court, is personall*)

ANENT THE ENTRES OF HEIRES

to their heretage.

CHAP. 6.

GIf ane heire after the decease of his predicellour, is minor, and within lauchfull age: and his ouer Lord hes his lands in his ward and keeping: And the ouer Lord will not restore & deliver his lands to him without pley; quhen he is cume to lauchfull age, that is, twentie ane zeare: the heire fall recover his lands, be ane brieve of mortancestrie: together with the damage and skeathes sustained be him, be reason of the detention, and withhalden of his lands fra him, fra the time that he was of lauchfull age.

2. And gif ane heire of anie man, after the decease of his predicellours is major, and of perfite age: and is knawne as richt heir and in possession of his heretage, his ouerlord fall not eject him furth of his possession: nor fall not intromet, or remoue anie thing

thing thereof: bot gif he craue or seeke any possession, he fall seeke the same before his awne ouerlord, be ane recognition or ane assise in his court.

3. And gif baith the ouerlords halds the heire malitiousslie fra the possession of his heretage: swa that the heire is compelled to raise the brieve of mortancestrie, and therebe to intend pley; the heire fall obtaine his damage and skeathes, as gif it war in the brieve of Nouell dissasin (*ejection*)

HERETAGE HALDEN OF THE KING.

CHAP. 7.

I*Tem*, concerning heretage, quhilk is halden of the King in cheife: It is statute, that the king fall haue full possession thereof. and that the heire nor na other person fall intruse him selfe (*or enter therein violentlie*) before he receaue the same furth of the kings hands.

2. And this is to be vnderstand of lands halden be knights service (*be service of warde and releiue*) of serjanteries, and of lands halden be richt of patronage. quhilkis lands vses fundrie times to fall in the kings hands.

LANDS HALDEN IN FREE SOCCAGE.

CHAP. 8.

I*T* is to wit, gif lands halden in free Soccage (*be blenssch or ferserme*) is in the custodie of the parents of the heire: be reason *Henry. 3. An. 52. 6.* the heire is within age (*within the yeares of pupillaritie*) the tutors *17.* sould not waist, nor destroy them, nor may not sell or wadset them, or anie part of them in anie maner of way.

2. Bot they sould keepe them safelie, to the vse of the heire.

3. Swa that quhen he cumes to perfite age: they fall answer to him, and fall make compt to him of the fruites and profites of the lands.

4. Reseruand to the tutours their reasonable misterres and necessare expenses.

5. Mairoue: the tutours fores aids, may not sell nor dispone vpon the heires mariage, bot to his awne vse.

The secund Statutes of,
EXECVTION OF DECREITS FOR
debt. CHAP. 9.

Leg. Burg. c. 94.

95.

Stat. Alex. c. 24.

Iac. 3. parl. 25. c. 36

Magna Charta.

Henr. 3. c. 8.

I*Tem*, it is statute, that neither the King, nor nane in his name, nor na other person fall take possession of anie lands, or rents for anie debt awand to him: gif the cattell, or moueable gudes presentlie pertaining to the debtour, is sufficient for payment of the debt, or the debtour is readie to satisfie the king or anie other creditour of the debt.

THE BORGHIS SOULD NOT PAY,
gif the principall debtour is responsall.

CHAP. 10.

Lib. 3. c. 1. 16.

IT is statute that the borgh (*cautioner*) for the debtour sould not be distrenzeid or poynded: sa lang as the principall debtour is responsall for the debt.

2. And gif the principall debtour failzeis to make payment of the debt; not haueand gudes to pay the samine; or refuses to pay quhen he may pay: in that case the borgh salbe answerable for the debt.

3. And he fall haue, gif he please the rents, and lands pertaining to the debtour; vntill he be satisfied for the debt, quhilk he payed for him.

4. Except the principall debtour verifie and proue that he is quite and free of him (*and that he hes alreadie releived him*)

THE TIME OF SELLING OF POYNDS.

CHAP. 11

IT is statute, that poynds or other distresses, taken for the kings debt, or be anie other occasion, fall not be sauld within fourtie dayes, to be rackned fra the day of the taking of them.

THE PAINE OF HIM QVHA COMMITS
disfaisin with reif. CHAP. 12.

Iac. 2. parl. 6. c. 20.

GIf anie man is attainted and conuict to haue committed disfaisin (*spuilzie*) with roborie or reif, of anie moueable gudes, be the recognition of ane assise of novell disfaisin: the compleiner fall recover his possession (*of the gudes spuilzied fra him*) and his damages and skaiths, aswell of the cattell and moveables; as of other things: and the committer of the disfaisin fall be fined and ranfoned

ransomed, quhither he be present or not. And gif he be present, he fall be imprisoned.

REVISING OE ANE OTHER MANS

wife.

CHAP. 13.

GIf ane woman is ravished together with her husbands gudes: the King fall haue his soyt and action for the gudes taken away. And gif the wife willinglie leaue hir husband, and passe fra him, and remane with the adulterer; sche fall tine for ever the action for craving of hir dowrie: quhilk might be competent to hir, gif sche be convict theranent.

2. Except the husband reconcile hir againe with him selfe, and suffer hir to dwell with him: without anie compulsion of the kirk. In the quhilk case, hir action sal be restored to hir, anent hir dowrie.

REVISING OF ANE NVNNE.

CHAP. 14.

QVhaever ravishes ane Nunne furth of hir closter, albeit sche consent: he fall be punisshed be the prison of three zeares: And neverthelesse fall make competent satisfaction to the halie house, fra the quhilk sche was taken. And mairouer, he sal be fined, and ransomed at the kings will.

NA MAN SOULD BE JVDGE IN HIS

awne cause.

CHAP. 15.

GIf anie man of great or of lesse estate, quhatever he be, takes ane revenge (of anie injurie done to him) be his awne proper will; without the advise and consideration of the Kings court; and is convict theranent: he sal be punisshed be ane fine or ransom, conforme to the quantitie of the fault.

2. And siclike, gif ane neighbour makes ane distresse, or troubles his other neighbour: swa that he suffer skeath therby: without the consideration and advise of the kings court: he sal be punisshed in the samine maner, according to the quantitie of his trespassse.

3. And siclike gif ane neighbour revenges him selfe vpon ane other neighbour, without the consideration of the court. he sal be punisshed in like maner, after the quantitie of his fault.

4. And

The secund Statutes of ,

4. And nevertheles , gude and sufficient mends sould be made to all them, quha be sic enormities, hes suffered anie damage and skeath.

REPLEGIATION OF LANDS TINT

be reason of ane default. CHAP. 16.

GIf anie defender is at the beginning in ane simple default; and after the summonds he compeirs not, nor sends not ane effonzie or actornay : the land (*quhilk is in controversie*) salbe taken in the Kings hands, be reason of the default made be him, quha was summoned to heare judgement and justice done: And be this way, the persewer sall obtene possession of the lands clamed be him.

2. Bot the defender quha made the default, fall doe diligence to repledge (*the lands to be restored to him, he fundand ane pledge therefore*) the land quhilk was taken in the kings hands within fiftene dayes.

3. Quhilk gif he does not : the next court day he fall tine the possession of the land in the samine maner, as gif it had ben tint be battell.

4. And the probation of the great negligence of the defender, quha did not repledge his lands : salbe prouen be ane great retour given be the kings Baillie.

5. And ane computation and raikning of the fiftene dayes fra the day, quhen the lands was taken in the Kings hands, salbe indorsed upon the back of the brieve ; or of the great retour, send be the kings Baillie to the King , at the day of the replegiation : that is, at the day quhen the defender sould haue repledged the lands furth of the kings hands, and repledged them not.

6. And gif the defender hes not repledged the lands, be him self, or be ane other person within fiftene dayes , after they war taken in the kings hands : he tines the saising of them be his awne default.

7. For lands taken in the Kings hands, may be repledged either be the defender, or possessor in his awne proper person : or be ane other man : because anie stranger may repledge ane other mans land.

King Robert the first.
OF TWAY SISTERS CALLED FOR

31.

warandice. CHAP. 17.

GIf twa sisters are called as warants, quhereof the ane is *major* and of perfite age: the other is *minor* and of les age: and they beath compeir in court: and sche quha is *minor*, alledges that sche is within perfite age, & desires ane tutour: he sall be given to hir: and the other sister quha is *major*, sall not be compelled to answer without her sister quha is *minor*, and swa the pley sall ceise without ane day, vntill sche come to perfite age.

2. And quhen sche quha was *minor*, is become *maior*: the pley sall be wakened in the samine estate as it was, quhen it ceised.

3. The like is to be vnderstand of divers & sundrie cōportioners of lands; quhereof some are *maiors*, and some are *minors*.

THE QUANTITIE OF SVBSIDIES GI-

ven be tenents to their Lords. CHAP. 18.

QWhen the Lord will make his sonne & heire, ane knicht: or is *Lib. 2. c. 73.*
willing to marie his eldest dochter or his after born dochter: his men (*vassallis*) quha halds of him, fall giue to him ane subsidie (*help or collection*) in this maner: that is, of ane knichts fee, twentie schillings onlie salbe given: and gif there be mac knichts fees, mair salbe given: and gif they haue les land, they fall giue les, conforme to the quantitie of the tenement.

2. Ane man (*the ouerlord*) may list and take vp this help, before his sonne be of the age of fiftene zeares. And thereof mention salbe made in the kings brieve raised thereanent, and quhen it sould be given, and that it is necessarie to seeke the samine.

3. And gif it happens that the father deceis, after he hes listet vp that subsidie from his vassallis, & before he marie his dochter: his executours salbe bound and oblissed to his dochter, for sameikell as he receaved, and tuke vp of the subsidie.

4. And gif the fathers gudes & geir are not sufficient to that effect: the heire of the father salbe oblissed to the dochter for that meikill (*quhilk in laikis*)

Inc. 4. parl. 6. c. 76.

Stat. wilh. c. 22

Stat. Alex. c. 24.

ANENT PAYMENT OF MERCHANTS DEBTS. CHAP. 19. *Inc. 6. parl. 8. c. 139*

GIf ane merchant hes proven his debt awand to him, be ane *Edward. 1. An. 13.*
assise, or be any other maner: the Mair or Alderman of the *in the Marchants*
town, or the keiper of the village fall take & apprehend the deb- *statute.*

tour, gif he be ane laick man quher ever he may find him within his iurisdiction: and deliver him to the prison of the towne, gif it hes ane prison: and there the debtour fall remaine vpon his awne proper expenses, vntill he satisfie and pay the debt. And

F

command

The second Statutes of,

command shalbe given to the keiper of the prison (*to the Jaylor*) of the towne, that he receaue him at the command of the Mair, or of the Alderman. And gif the Jaylor receaves him, he shal answer for the debt, gif he hes same kill in gudes and geir.

2. And gif he hes not responfall: he shal deliver the debtour to him quha gaue him the keeping of the prison. And swa the Jaylor shold be war, for he shal either answer for the debt, or for the debtours bodie.

4. Gif the debtour can not find the way to pay the debt: the Mair or the Jaylor vnder his seall, shal certifie the kings Chancellor of the quantitie and clearnes of the debt: within ane quarter of ane zeare, after that the debtour was taken. And the moveable gudes and the lands perteining to the debtour, shalbe taken, comprised, and given for payment of the debt.

5. And gif his gudes are not sufficient for payment of the debt: his bodie shal remaine in prison vntill all the debt be payed; and the creditour shal find to him bread and water.

6. And the marchant or his assignay, shal haue sic saisning of the debtours lands assigned to him; swa that he may raise ane brieve of novell dissaisin theranent, as of his awne heretage perteining to him, his heires and assignes, ay and quhill he be payed of his debt.

7. After that the debt is payed, the bodie of the debtor & his lands shal be made free; and shalbe delivered be ane command and brieve given be the chancellor, gif necessitie require.

8. Bot gif the Schiref declares to the king, that the debtour (*is fugitive*) and can not be apprehended: the merchant shal haue the kings brieue direct to all Schirefs within quhais Schirefdoms the debtour hes anie lands; to deliver all his cattell and lands vnder ane reasonable extent to the creditour: to be halden be him and his heires in maner foresaid.

9. And after that the debtors lands are delivered to the merchant: It is lesume to him to sell the samine; swa that he shal haue na skeath anent his payment.

10. And at all times the merchant shal haue reserved to him his damage, and necessary expenses and of his labours persecutes in law delayes, and all other expenses.

11. And gif the debtour findes pledges, quha grants and confesses them selues to be principall, and full debtours: quhen the day of payment is bygane, the like proces and forme shalbe vsed
again

against the pledges : as is said touching the principall debtour : in so far as concernes the taken of the bodie, and delivering of the lands, and other things.

12. And quhen the lands are delivered to the creditour : he shall take raising of all lands, quhilkis was in possession of the debtour, the time quhen the debt was recognized be ane Assise : albeit they become afterward in the hands of quhatsumever other men, be infestment, or otherwise.

13. And thereafter the debt being payed to the creditour : the profits of the lands shall returne, and pertain to him quha is infest therein, as they did of before to the creditour.

14. And gif the debtour, or his pledge happens to deceis : the merchant shall have na power to take the dead bodie : bot shall have his lands as said is.

DEFORCERIS OF THEM QUHA TAKES poynds. CHAP. 20.

Item, gif anie man compleines to the Schiref or the kings officers of law, that any man will not suffer the poynds taken fra him, to be repledged (*he will not suffer them to be poynded, nor will not find ane pledge for their entres in court*) bot deteins them against the law : And for proving hereof, finds ane pledge to the next Schiref court : because in this complaint na elsonzie nor delay hes place ; the Schiref shall send with the complainer, his sergents to him, quha staves unjustlie the poynds to be repledged, and withholds them.

2. And the sergent or Schiref, shall cause the poynd to be delivered back againe : And shall take pledges (*fra the taker of the poynds*) to answer to the compleiner, as law will.

3. Swa it is necessare, that he quha made the complaint, shall have his probation readie at the next Schiref court.

4. And gif he proves sufficientlie : he shall be quit and free of the creditour.

5. And gif he failzeis in the leist poynt of his probation : he shall be in the kings amerciament.

6. And the sergents shall cause the poynds to be delivered to the creditour : vntill the debt be fullie payed to him.

7. *Item*, it is to wit, that this is the forme in dischargeing of poynds : that the debtour shall have his cattell poynded, or anie other poynd restored to him, and probation readie at hand, with clep and call.

F 2

8. And

Stat. with c. 4.

12c. 6. parl. 7. c. 117

parl. 11. c. 84. park

12. c. 105.

The secund Statutes of,

8. And gif the creditour discharges the poynd to be delivered to the kings sergeants: they may distrenzie him in his moueable gudes; vntill he make deliverance of the poynds.

9. Gif the debtour comes with companie of armed men, and force of men, and violentlie take away the poynd fra the kings sergeants: they shall raise the schout, and hoes vpon him, at the kings castell within that schirefdome: and shall compleine vpon him, that he agains the Law, and assise of the land, hes deforced them of the poynds and distresses, in exercising of their offices, in despite and contempt of the king.

10. And then the Schiref shall cause his bodie to be attached, and surelie keiped: vntill he find sufficient pledges to answer as law will.

11. And gif he is conuict thereanent; he shall be in the kings will of life and limme.

Barons may cognosce vpon deforcements.
12. Item, gif the debtour or anie on his part comes to the place quhere the poynds are driven away; and violentlie, and be force takes and caries them away: the Lord of the land or the creditour with schout, and hoes, may follow him.

13. And quhen he is apprehended, the poynds shall be restored to the creditour, and justice shall be done vpon him quha be force tuke the poynd as vpon ane prouen reiver. And this pertienes to the Lord of the land or heretage.

OF THE GVDES PERTEINING TO *them quha are taken for felonie.* CHAP. 21.

GIf ane man is taken for slauchter, or for anie other felonie, for the quhilk he sould be imprisoned: he sould not be dispossessed of his lands, tenements and cattell, vntill he be conuict of the felonie.

2. And how sone he is taken, be the sight of the keiper of the pleyes, pertaining to the kings crowne, or of the Schiref, or his deputies, or of gude men of the cuntrie, all the gudes moueable pertaining to the felon, shall be sighted and visced. and shall be put in inventar be the Baillies of that place.

3. Quha shall find sufficient securitie be pledges, to answer before the Justitiar anent these moueables.

4. Reserue and to him quha is taken and to his familie their necessarie expenses sa lang as he is in prison.

5. And

5. And gif he is convict of felonie: all his gudes by and at- *Lib.2.c.55.*
 tour the expenses foresaid, fall remaine with the king be the space *Stat.Alex.c.22.*
 of zeare and day.

6. And gif he be made quit, and cleane: all his gudes salbe
 restored to him.

PROBATION OF LENT MONEY.

CHAP. 22.

QVha seikes fra anie man silver quhilk he lent to him; it is
 necessare that he proue the samine. And gif he quha recea-
 ved the silver, alleges that he hes made payment thereof anie
 maner of way: he fall proue the payment to be lachfullie made.

THE KEIPING OF FVRIOVS MEN,

and slauchter committed be them. CHAP. 23.

FVrious men sould be taken, and keiped be their friends.

2. Quhilk gif the friends can not do: the furious men sould
 be imprisoned be the Justitiar, or be the Schiref of the cuntrie.

3. And gif they slay any man: inquisition salbe taken, gif
 that be done be fenzeid furie, or not. And gif it be tried that it is
 committed be them being in thair wit, and gude minde: they fall
 be punished as men of haill mind, and of sound wit.

4. And gif they did it throw the heat of furie and madnes:
 they salbe taken and keiped in bands.

5. And this perteines to the keiping and custodie of their
 friends. And gif they doe anie euill be negligent keiping: that
 salbe imputed to their keepers.

LANDS SAVLD SOULD BE HALDEN

of the ouerlord, and not of the infester.

CHAP. 24.

ITem, forsameikill as divers and fundrie men be buying of
 lands and tenements perteining to Knights and other Lords, *Edward.1. An.13.*
 to their great hurt and prejudice in time bygane; hes entered *An.18. west min-*
 in the samine: the quhilkis Lands ware fault and analeid be *ster.*
 the tenants and freeholders of the saidis Knights, and others
 great men and Lords, to be halden as of their fee, of them
 selues and their heires; and not of the saidis Knights, or Lords
 being ouer Lords of the analiers makers of the said aliena-
 tion, and infestmentes. Quharebe the saidis ouer Lords

The second Statutes of,

did tine and amit the mariages, escheittis and wards, quhilk did fall and pertene to them of their tenandreis, the quhilk was hard and verie prejudiciall to them; be reason in this case they ware manifestlie disheresed (*of their heretable richt and profite of their superioritie*) Therefore the King in his plane parliament at the instance and desire of his nobilitie, hes statute, and ordained;

2. That in time cumming, it salbe lesume to anie free man, to sell his lands at his awne pleasure and will: swa that the buyer of the lands fall hald the samine contened in his infestment, immediatlie of him, quha is ouerlord to the seller of the lands; for the samine service and dewties, as the maker of the infestment and alienation, did hald them before the making therof.

3. And gif ane man selles and disponis ane part or portion of the lands or tenements; the buyer quha is infest, fall hald the samine part of the immediat ouerlord.

4. And he salbe burdened and charged incontinent, with samem kill service as may pertene to that part: conforme to the quantitie of the land and tenement quhilk is sauld.

5. And swa in this case, ane part of the service salbe payed and done be him quha is infest to the ouerlord; according to the quantitie of the tenement quhilk is sauld.

OF ANE WOMAN ACCUSED CRIMINALLIE being with child. CHAP. 26.

QWhen ane woman accused of ane crime, alledges hir selfe to be with childe: that therebe sche may decline (*delay*) the judgement: the Judge sould chuse and elect ane honest womans house: and fall cause the woman quha is accused passe thither, that the trewth may be tryed.

2. And he fall cause three midwives of gude experience and fame, convene together: quha being sworne be the great eath, fall make inspection of hir, conforme to their art.

3. And gif they all three, or anie twa of them agree together, that sche is with childe: or gif there be mae medwives, and the maist part of them consent likewaies: the woman quha is accused salbe committed to honest and sure custodie, vntill sche sould be delivered of hir childe: swa that the Judge salbe answerable to the King, and also to the partie complenand, gif anie be persewer of that crime.

4. And

4. And quhen sche is delivered of hir childe: or the time of hir birth is bygane: Justice salbe done vpon hir, according to hir demerites (*and as sche hes deserved*) as of ane woman not being with childe.

OF ANE WOMAN ALEDEGAND HIR

to be with childe, after the death of hir husband.

CHAP. 27.

Item, gif ane married woman alledges hir selfe to be with childe after the decease of hir husband: that the barne after the decease of the husband, may succede to him (*as the Law is anent the making and institution of the children borne after their fathers death, to be heires to him*) the Judge sould commit hir to the keeping of some honest woman, vntill the time of hir birth.

2. And the woman threttie dayes before hir birth, fall send to the frends of hir vnuhill husband; and desire them to come, and keepe hir; ay and quhill sche haue borne hir childe.

3. And quhen the day of hir birth is come, keepers fall be put to the dore of the house, in the quhilk sche is to bear hir child: and remoue all suspition of anie womans birth.

4. The quhilkis keepers fall diligentlie try and examine all the women quha enters in the house, or comes furth. And mairouer, they fall advert diligentlie, that na woman with childe fall enter in the house of quhom anie suspition may be taken.

5. And the time of the birth, three lights or candels salbe in the house, because darknesse is meet and convenient to surrogat ane false birth as gif it were the trew birth (*ane womans barne as ane other womans birth*)

6. And the childe being borne, salbe schawin to the frends of the husband quha is deceased: that all suspition may be removed: and that the childe may without anie difficultie, succede as heir to his father.

OF ANE JUDGE QVHA JVDGES

wrangouslie. CHAP. 28.

Gif ane Judge is convict, to haue given false judgement three times: he fall not be hard therafter to give judgement (*to be ane Judge*) nor he may not be ane forspeaker, nor stand in judgement: except be the kings grace, or is reconciled be repentance.

Stat 1. Rob. 1. c. 2.

Exod. c. 22. 5.

1ac. 1. parl. 6. c. 26.

1ac. 2. parl. 6. c. 17.

1ac. 3. parl. 5. c. 25.

1ac. 5. parl. 7. c. 10.

FIRE

The secund Statutes of ,

FIRE AND BVRNING. CHAP. 29.

Exod.c.22.6.

GIf fire breake out , and catch in the cornes , and swa the stackis of corne perteing to ane other man in his barnes, or the cornes in the fieldis happens to be brunt and consumed: he quha kindled the fire fall make full restitution.

OF ANE THEIF, STELAND IN TIME *of nicht or of day.* CHAP. 30.

Exod.c.22.2.

GIf ane theif be found breaking vp ane house in time of nicht, and he be wounded be anie man swa that he dye: he quha did wound him, fall not be gilty of his blude. Bot gif anie man doe swa to ane theif in time of day licht. he fall dye, and be punished as ane manslayer.

OF HIM QVHA FEES ANE OTHER *mans servant.* CHAP. 31.

GIf ane man conduces and fees anie man, awand debt to his neighbour: and his neighbour discharge and forbid him, that he hald him in his service: gif he after that forbidding, halds him in his service: he salbe oblissed to his neighbour for the debt.

2. Bot gif he before the prohibition receaved him in service: he is not farther oblissed to answer for the debt, bot conforme to the quantitie of his service.

INDWELLARS IN ANE SCHIREFDOM, *shuld come to the market of the samine Schirefdom.* CHAP. 32.

ALl men dwelland alandward, als well freeholders, as husband men, quha dwells within our Schirefdoms; fall come with all their moueable gudes, to buy and sell to na other market, bot to our market of the Schirefdom quhare they dwell.

2. And gif they be convict in doing the contrare: ilkane of them fall pay aucht schillings: and fall tine the gudes caried to the market.

OF

OF ANE WARANT QVHA DECEASES

the pley depending. CHAP. 33.

Glf ane man calles ane other for his warant: and the warant happen to deceis the pley as zit depending (*and not decided*) the pley sall cease and stay be reason of his deceis.

2. And gif the defender (*quha called his warant*) is persewed be ane new brieft: he may lauchfullie call for his warant, the heire of him quha was called as the first warant.

3. Because ane man may haue mae warants of ane fee or heretage. And it is in his option, to call for his warant, quhom of them he pleies.

OF THEM QVHA ARE REPELLED

from pruiſe, acquittance, and testimonie.

CHAP. 34.

Item, from probation, acquittance, and testimonie, ſould be repelled ane barn being minor, quha hes not compleited the age of fourtene zeares, furioſe men, bondmen (*or ſlaves*) women, adulterers, theiſes, pure men, men-ſworne, and perjured men, men ſcarged about the kirk, or throw the town, infamoſe men, conuiſt and redemed fra the Juſtice, men ſib in blude companions, and partakers of the ſamine crime, natiue bondmen, clerkes agains laicks, and laicks agains clerkes.

2. Mairover from acquittance, inquisition, probation, and ane aſſiſe ſould be repelled the father, the ſonne, the brother, the father brother, and they quha are in blude or affinitie, within the ſourt degree, the Lord (*or maiſter*) the maiſters Baillie, the man wearand his maiſters cleathes, and he quha is of his counſell, or retinew, and haldand of him land for ferme, or for zearlie rent, and he quha is partaker of the accuſation, and enemie, or evill-willer to the partie, and he quha is conduced be prayer, or be price, and he quha is curſed and excommunicat, or imprifoned, or in bands: and all they quha are repellit as vnworthie from accuſation, all they quha are outlawes, all they quha are accuſed criminallie, and are not lauchfullie clenged, be reason their accuſation as zit depends not diſcuſſed.

*Stat. With. c. 13.**Stat. Rob. 3. c. 14.**M. x. parl. 5. c. 18.**Iac. 6. parl. 3. c. 53.**parl. 11. c. 23. parl.**14. c. 197.*

MVLTVRE

The secund Statutes of ,

MVLTURE OF BOCHT VICTVALL.

CHAP. 35.

1sc. 4. parl. 4. c. 44.

IT is statute be the king, that all they quha buyes victuall at the kings ports forth of ships; or fra burgessis at their granaries: they may passe to anie milne, within the foure parts about them, as they please, and may carie that victuall quhere they please, frelie, and peaceablie.

LIBERTIES OF NEW GRANTED TO

the inhabitants of Galioway. CHAP. 36.

Rober t be the grace of God king of *Scottis*: wit ze vs for vs and our heires, to haue given, and be this our present charter to haue confirmed perpetuallie, to our capitanes and subjects in *Galloway*, anent anie thing that sall be said against them, be the sergents of *Galloway*, that they sall haue ane gude and trew assise of countrey men.

2. And that they sall not be oblissed to make purgation, nor acquittance, conforme to the auld law of *Galloway*.

3. Reservand to vs and our heires, the foure pleyes pertaining to our Crowne: and also all articles touching treason, and slaughter of strangers of other Realmes, and all persute thereof.

4. And albeit anie *Galloway* man be convict be the said assise; he sall pay to vs ten kye, for ilke inditement quhereof he sall be convict, and na mair.

5. Bot gif he is convict of treason, or of slaughter of strangers foresaidis at our instance, or of anie partie: he sal be in our will of his life and limme.

6. And gif anie sergent, or of our ministers within *Galloway* is accused be vs, or be anie in our name vpon anie poynt or article touching his office; he sall acquit and purge him self, be the forme and maner of acquittance vfed and wont within *Galloway*.

7. And concerning other articles, he sall answer at the instance of the partie, in sic maner, as others his neighbours sould doe, conforme to the lawes of *Galloway* foresaidis. In witness quhereof, &c. At *Glasgow* the 13. day of Junij: and of our Reigne the nintene zeare.

THE

THE SIGHT OF THE LAND HES

not place in ane action of dowarie. CHAP. 37.

THe sight of the land hes not place in the kings briefe, anent the action of dowarie, quhen the woman persewand hes na dowarie nor terce, nor zit quhere the womans husband deceffed, wested, and laised.

THE SIGHT OF THE LAND, IS NOT

given to him quha hes bot ane tenement.

CHAP. 38.

QWhen anie pley or controversie is betwix twa parties anent lands; the lands being in ane towne, the sight thereof fall not be given to the partie; except he haue twa lands or tenements lyand in the samine place. *Lib. 1. c. 9.*

THE





THE ASSISES OR STATVTE OF KING DAVID THE SECOND OF THAT NAME,

QVHA VVAS SONNE TO KING

ROBERT THE FIRST: HE BEGAN TO

Reigne, in the zeare of the world, 5300.

of Christ, 1330. And reigned 40.

zeares.

OF ANE THEIF BOCHT OR REDEMED,
or escape and furth of the bands.

CHAP. I.

Stat. 1. Rob. 1. c. 9.

Stat. Wilh. 1. c. 15.

Jac. 5. par. 1. c. 2.



It is statute be King *David*, that na man sell ane man, quha is ane approved theif (*bruted and commonlie suspected as ane theife*) for silver, for frendship, or for anie other hire.

2. And gif ane Earle, or any man allegeand him to haue the liberties or consuetudes of ane Earle; does in the contrare: he salbe vnlawed in ane hundreth kye, to be payed to the King.

3. And gif anie other of the nobilitie swa does: he fall pay to the king, and his Justitiar twentie foure kye.

4. And he quha refuses or delayes to doe this: fall pay to the king ane vnlaw of ane hundreth kye.

5. And the theif salbe banished furth of all the kings dominions.

King David the secund.

7.

nions. And gif he be thereafter apprehended: Justice salbe done incontinent vpon him: according to the crime and theift.

6. And gif ane theif is fast in the irins or bands, and be chance escapes furth of them: the Lord and maister of the place or prison, out of the quhilk the theif escaped: fall sweare with twentie seauen men, and with three *Thanes*; that the theif escaped furth of the prison, agains his will and consent. And swa he salbe quite and free.

OF ANE CHALLENGED FOR THEIFT, *and hes na pledge.* CHAP. 2.

GIf ane man is challenged for theift, and can not finde ane pledge: the kings Justice fall take him with all his gudes; and doe sic justice vpon him, as law and consuetude is anent ane man quaha hes na pledge. *Stat. Alex. c. 13.*

2. That is, gif he be taken with rid hand; and is followed be any man: incontinent he fall vnderly the Law: And gif na man persewes him, his bodie salbe keeped vntill the next court, that all men may haue knowlege of him.

OF ANE MAN WANTAND ANE MAISTER. CHAP. 3.

GIf any man is found within the Kings land, without ane maister: after that the brieve is read in the kings court, he fall haue the space of fiftene dayes, to seeke and get ane maister.

2. And gif he findes not ane maister at the next terme: he fall pay to the Kings Justitiar aucht kye. And the man salbe keeped be him, to the kings wark, vntill he find and get ane maister.

OF HIM QVHA DENIES THEIFT, *and succumbs in his acquittance.* CHAP. 4.

GIf ane man is challenged of theift, and denies the theift; and that he is na theif, nor never consented to theift, nor any wayes hes knowlege thereof: and he is ordained to purge and acquite him thereof: gif he failzie in his acquittance and purgation; justice salbe done vpon him, as ane proven theif.

G

THE

The Statutes of,
THE MANIFESTATION OF POYNDS.

C H A P. 5.

GIf ane man dwelland in ane Baronie, takes ane poynd in ane other baronie, without licence of the Lord thereof, or his Baillie : and returnand hayme agane he sayes to them, quhom he meetes be the way, that he hes taken ane poynd : this saying and declaration, faues and preferues his life and limme.

2. Bot because he tuke the poynd vnlauchfullie ; he fall giue aucht kye to the king : and fall restore the poynd, and thereafter fall seeke his richt.

3. And gif he made not, nor can not proue that he made sic ane declaration : Justice salbe done vpon him, as vpon ane pro-
ven theif.

TAKING OF POYNDS, WITH THE

Schirefs licence. C H A P. 6.

GIf ane man dwelland in ane Schirefdome, willis or desires to take ane poynd in ane other Schirefdome : he fall come to the Schiref or his depute ; and fall aske licence of him. And than the Schiref or his depute sould pas with him, or the Schiref sould send his depute with him to the debtours house.

2. And gif the debtour cōfesses the debt : the depute fall deliver the poynd to the creditor ; gif the debtour payes not the debt.

3. Bot gif the debtour denies the debt : the creditour fall mak faith (*anent the debt*) agains the debtour in his awne house : and the depute fall cause the poynd to be delivered to the creditour : the quhilk poynd he fall keepe and reteine be the space of three dayes within that Schirefdome, that Justice may be done to the complainer.

4. And gif any man will repledge the poynd within the saidis three dayes ; the poynd salbe lettin to borgh : and the depute fall assigne ane day within that Schirefdome, to doe justice to the complainer.

5. And the three dayes being by passed, gif na man repledges the poynd ; the creditour complainer fall carie away the poynd to his house : and fall haue the samine in readines, to doe therewith as affeires of law.

6. And gif the creditour halds and deteines not the poynd, be the space of three dayes within that Schirefdome : he fall pay to the king aucht kye.

TAKING

TAKING OF POYNDS, WITH LICENCE
of the Lord of the land. CHAP. 7.

Item, it is statute be king *David*, that na man take ane poynd within any mans land : except first he haue licence of the Lord of that land, or of his Baillie.

2. And gif anie man does the contrare ; gif the land perteines to the king : he fall haue aucht kye.

3. And gif the land perteines to ane Earle, or to ane Baron : the Earle or the Baron fall haue six kye.

OF THEM QVHA COMPLAINES NOT
to their awne maister. CHAP. 8.

IT is defended and forbidden be king *David*, that na man fall seeke or request him, nor complaine to him anent anie pley ; ^{*vid. Iac. 1. parl. 2. c.*} 45. except first he require and sute his maister, or the Schiref : or gif his maister, or the Schiref, or the Earle within the same Schirefdome, faillie in doing justice to him:

2. Except it be ane principall pley of great weicht or consequences, perteining to the kings crowne.

3. And quha does the contrare : fall gif to the kings Justitiar aucht kye.

THE TIME OF HALDING OF THE
Kings courts. CHAP. 9.

IT is statute be king *David*, that in ilk Schirefdome, the kings courts salbe halden within fourtie dayes.

2. The Bischop, the Earles within the Schirefdome, the Schiref, the Lords of ilk village, and all they quha are challenged for theft ; or for any other crime, sould be present at the saidis courts.

3. And na man fall break or contraven this constitution, vnder the Kings full amerciament. Except for ane manifest and lauchfull cause, quhy he may not be present at the saidis courts and pleyes.

Quon. Attach. c.

79. c. 33. Stat

with. c. 2.

Iac. 5. parl. 6. c. 71.

The Statutes of,
ILK MAN SOVLD VSE HIS AWNE
lands, and absteine fra other mens lands.

C H A P. 10.

IT is statute be the King, that all possessours of lands fall vse them as their awne proper lands: and within them, fall nurisch and susteine them selues, and all theirs.

2. Nor it fall not be lesume to them to doe, as it was wont to doe in time bygane: that is, to spare their awne lands; and to waist and destroy other mens lands, and to vse them as their awne proper possessions.

3. The King alluterlie discharges this wicked consuetude: and that nane within his Realme presume swa to doe preciselie, vnder his full amerciament.

THE MANER OF PASSING THROW
other mens lands. C H A P. 11.

Iac. 1. parl. 1. c. 7.

Iac. 2. parl. 14. c. 83

Iac. 3. parl. 14. c.

104.

Iac. 6. parl. 8. c. 140.

Item, it is statute be the king, gif anie man of perfite age, or of les age, come to the kings court: or to anie other place, for any reasonable cause mowing him: he fall pas with sa many men as becomes him, that in his passing and returning, he fall not waist the lands pertainig to the King, Bischops, or others: with ane great and superflous multitude in his companie.

2. *Item*, quhen they come at even before nicht, to any mans house in their way; they fall desire herberie fra him: and thereafter quhen their men or companie at his command, are distribute severallie in sundrie houses to be lodged conforme to the vse of the cuntrie: they fall not desire meat nor drink violentlie fra their hostes aboue their power: bot onlie as they may gudelie doe after their power. And quhat ever the maister of the land giues, or commands to be given to them: they fall receaue that willingly.

3. And gif any of them, quha be the ordinance of the Lord of the ground, is commanded to receaue them in herberie, casts furth, or ejects any ane of them to the dore; and causes him to fast without the house: he fall give to his maister ane kow.

4. Mairover, the King hes commanded, that gif anie man contrare this law, enters within any mans land without his licence: and violentlie takes, or reifes meat fra his men & tenants: he fall for that wrang pay aucht kye to the Lord of the ground. And in time cumming, fall abstene fra sic iniquitie.

5. The

5. The king likewaies commands, that within his Realme for charities caule, convenient and lauchfull hospitalitie salbe keiped. And that all hostile waisting and destruction be violence, salbe vnterlie extinguisht, and that na man presume to vse it in time cumming.

*lic. 6. par. 7. c. 116
Edward. 1. An. 3. c.*

I.

OF PILGRAMERIS, MERCHANTS,
and ministers. CHAP. 12.

Item, it is commanded be the King, that all men within his Realme, fall faithfullie leaue, and exerce their awne offices; and faithfullie doe their awne effaires.

2. All pilgrameris, quha for salvation of their saules, will visit the places of halie Saints; fall haue sure peace in palling and in returning, swa that na man fall doe them injurie. And also they salbe war, that they vse and contene them selues lauchfullie.

3. Merchants command be land or be water, fall pay fullie to the kings servants, his richts (*justlie pertaining to him as his customs*) as was ordained in the time of the kings father.

4. All ministers dwelland in Manfes perteining to kirk, or in any other place within the Realme, salbe faithfull in their ministerie, and vse their lawes richteouslie: and salbe trew and faithfull to the king: quha is names and number the king will knaw, be some faithfull man.

5. The king hes made this constitution, because he will haue na difference betwix pilgrameris, merchants, and ministers remanand within his Realme. And that ilk ane of them fall leaue leallie and trewlie in their office.

THEIFT DONE TO PVRE FOLK.

CHAP. 13.

It is statute anent pure and weak folk, that all they quha are destitute, and wants the help of all men, salbe vnder the Kings procuracion, and protection within his Realme, quher they are, or commonlie sould be.

2. And therefore be the Law, he grants to them. That gif any thing is stollen fra them, and any man is found quha will proue the theift to be committed, he fall declare the theifes name before lauchfull witnesse, vpon the halie altar, as the vse is in Scotland.

The Statutes of,

3. And he fall there sweare that it is trew quhilk he sayes a-
nent the theif: and the geir stollen salbe restored, as gif it were
the kings awne proper geir.

4. And gif anie man grants and affirmes, that he violentlie
without law or judgement hes taken anie thing fra the pure folk:
he fall restore that quhilk he tuke, and for ane mends fall pay
aucht kye to the king.

OF WEICHTS IN BVYING AND selling. CHAP. 14.

IT is statute be king *David*, that ane cōmon and equall weicht,
quhilk is called the weicht of *Cathnes* in buying and selling, fall
be keiped and vsed be all men within this Realme of *Scotland*.

2. The Law of God commands, thou fall not haue in thy
bagge twa maner of weichts, ane mair, and ane other les: nether
Deuter. c. 25. 13. fall thou haue in thine house divers measures, ane great, and ane
14. small: bot thou fall haue ane richt and just weicht.
Leuitic. 19. 35. 36.

3. Gif anie man againsts the command of Gods Law, vses any
vnequall weicht: he fall pay to the kings Justice aucht kye, for
his fault and transgression.

OF HIM QVHA SLAYES ANE OTHER mans dog. CHAP. 15.

IT is statute be the king: That gif ane man slayes vnjustlie, and
againsts the Law, ane other mans dogg: he fall walk and keipe
his middin, be the space of ane zeare and ane day: and fall restore
without contradiction, all damage and skeath sustened be him
within the said time, be reason of the want of his dogg.
Leg. burg. c. 131.

THE ACCVSATION OF THE HVS- band, for the death of his wife. CHAP. 16.

GIf ane man will doe any thing againsts ane other (or accuse
him) for the death of his married wife: he fall not be hard to
persew him; except it be notoriousslie knawen, that the husband
did slea hir; or wounded hir, quhere throw sche died: speciallie
gif he did loue hir as ane husband sould loue his wife.

2. In the time of king *David*, ane case happened in this ma-
ter. Ane man of gude fame gaue to his wife descended of great
blude,

He de ane blow with his hand of gude zeale & intention to correct hir: And sche being angrie with hir husband after that day, wald not for na mans request eat nor drink vntill sche decessed; and entered in the way of all flesh: the freinds of the woman accused the husband for the slauchter of his wife.

3. And because it was notoure and manifest, that he did not slae hir; nor gaue hir na wound, of the quhilk sche died: bot gaue hir ane blow with his hand to teach and correct hir: and also vntill the time of hir death loued hir, and entreated hir, as ane husband weill affectionat to his wife: The King pronounced him clene, and quit. And thereanent made this Law.

OF ANE MALEFACTOVR EVILL

deimed be the fame of three, or tway, or ane baronie.

CHAP. 17.

IT is statute be the king, with consent of the Prelates, Earles, and Barones, that gif the suet, or bruit of three baronies follow any man for reif, theft, or any other trespas, for the quhilk he sould die the death, and he haue not pledges; be reason of these three suites, or euill bruites, he sould be hanged, and receaue sic punishment as he sould be the Law. *Stat. Alex. c. 13.*

2. And gif he be euill bruted, or deimed be the voice of twa baronies, and hes na pledge; siclike he salbe hanged: speciallic gif the euill fame of the cuntrie, or schirefdome, succeding in the place of the thrid baronie.

3. And siclike gif the euill fame of ane baronie follow him onlie; and he be otherwaies infamous, and hes na pledge: he salbe hanged.

4. Because the fame, with the voice of ane baronie, may *Evill deimed half hanged.* cause ane man to be put to the death.

5. Bot simpill fame, except it be with inquisition of sworn men, is not ane cause to gar men die the death.

ANE IVDGE SOULD NOT OBEY VN-

Jac. 6. parl. 6. s. 92.

lauchfull commands. CHAP. 18.

NA Justitiar, Schiref, nor na other the kings minister of law, fall obey or execute any command agains the law, direct to him vnder quhat someuer seale; great seale, privie seale, or signet. And gif any sic precept or command is presented to him: he fall indorse it, and returne it back agane.

THE

The Statutes of,

THE BRIEFES OF MORTANCESTRIE, *and novell dissaikin, sould be pleaded be ane Assise.*

CHAP. 19.

IT is statute be the king, that the briefes of mortancestrie, and novell dissaikin, fall never be pleaded be ane simple challenge of the persouer: bot onlie be ane gude Assise of cuntrie men, and na otherwaies.

2. And na simpill clame hes place in these briefes: Because there twelue men chosen of cuntrie men, to pas vpon the Assise, fall pronounce their verediēt (*deliverance*) conforme to the poynts and articles of beath the briefes, and conforme to the verediēt of the Assise pronounced in court, dome salbe given to the parties.

LETS OR IMPEDIMENTS OF PER- *ambulation.* CHAP. 20.

Perambulations sould cease and stay, gif the summons is not lauchfull.

2. *Item*, ane perambulation led and deduced of before betwix the samine parties (*the kings person alwaies excepted*) destroyes the perambulation.

3. *Item*, gif the methis and marchis of the lands quhilke sould be perambulat, are not named in the letter (*briefe or summons*) the perambulation is null.

4. *Item*, the absence of any man, quha sould be present at the perambulation, stayes the samine.

5. *Item*, the absence or inlaik of the Justitiar annullis the perambulation.

6. *Item*, the absence or inlaik of ane Judge, does the samine.

7. *Item*, gif the lands are not named be their awne richt name: the perambulation is of nane avail.

8. *Item*, ane common hoist, or armie raised in the Realme, stayes the perambulation.

9. Gif he agains quhom the perambulation is raised, is *minor*, and of les age, the perambulation fall cease.

10. *Item*, ane discharge and prohibition given be the king for certaine causes: cassis and annullis the perambulation.

THE

THE BRIEFE OF MORTANCESTRIE

*ould procede, quhither the defender compeir
or not.* CHAP. 21.

GIf the persewer of the briefe of mortancestrie is present in the court; and the defender is absent: it is demanded gif the Assise fall procede?

2. It is answered that it fall not procede: Bot he fall be of new summoned lauchfullic; and the Assise salbe adjourned (*and continued*) to ane other lauchfull day.

3. At the quhilk day, quhither he compeir or not: the Assise fall proceed according to the forme of the briefe: swa that it fall not stay be reason of his absence.

4. And albeit he compeir that day, he may alledge nathing quhereby the Assise fall stay or cease.

OF ANE WARRANT IN THE BRIEFE
of mortancestrie. CHAP. 22.

GIf anie man is persewed for any land, be the briefe of mortancestrie; and alledges that ane other man sould warand him that land: ane day sould be assigned to him to call that warrant. *Lib. 3. c. 28.*

2. And he fall declare the name of the warrant; and in quhat Schirefdome he dwellis: to the effect in presence of the warrant, the proces may procede conforme to the Law of the land.

LETS AND IMPEDIMENTS OF THE
briefe of novell dissaikin. CHAP. 23.

THe briefe of novell dissaikin, may be cassin, gif the land or tenement, or the ferme (*or dewtie*) therof is not named trewlie in the quantitie or richt name.

2. *Item*, the briefe is null, gif the place is not exprimed in it, quhere the land or tenement lies.

3. *Item*, gif there betwa or three, or mae portioners of the land, or tenement; and are not all named within the briefe, and anie ane of them is pretermitted: the briefe is of nane availl.

4. *Item*, gif the land or tenement (*perteines to the husband*) be reason of his wife: and hir name be not conteined in the brief: the samine briefe fall receaue na proces.

LET

The Statutes of, LETS AND IMPEDIMENTS OF THE *proces before the Justitiar.* CHAP. 24.

GIf twa, or mae Justitiars are made & constitute be the king: the defender is not oblitted to answer before them: gif anie ane of them is absent: except they be in the brieft, constitute conjunctlie, and severallie.

2. *Item*, gif the Justitiars substitutes in their place, deputies ane or mae, without licence or command of the king: na man is bound to make answer before these substitutes,

3. *Item*, gif the Justitiars are suspect, or may be declined or refused for any manifest caule: na man is bound to answer before them.

ESSONZIES OF WARANTS. CHAP. 25.

Lib. 1. c. 21.

GIf ane man is persewed for anie land, and hes vsed all his de- laies vntill the calling of his warant: the warant may vse na essonzie or excuse, vntill he compeir in court.

2. Because ane warant is not ane of the parteis of the pley, or defender: vntill he compeir in the court as warant: for then he is esteemed ane of the parteis.

3. And his essonzies may be competent and vailable to him at ane other day: gif he please to alledge and vse them: and he may doe all things quhilk the principall partie defender may doe.

OF ANE HORSE CARIAND TWA *scheip, and burning of ane miln.* CHAP. 26.

*Thir four chap-
tours following are
writtin in ane
buke pertaining to
Sir David Carne-
gie of Kynnarde.*

ANe man passand be the kings hie way, callis before him twa schieip, bound together with ane tow, and with the twa ends thereof: and be chance ane horse haue and ane fair back, is lyand in the samine hie way: swa the ane of the scheip passes be the richt side, and the other Scheip, be the other side of the horse: And the tow quherewith they are bound tuiches his fair back: quhere throw he is moved to rise vp; and caries the scheip him- gand the ane vpon his ane side, and the other vpon the other side, here and there in sundrie places, and throw the feildis: vn- till he comes to ane open miln without ane keiper, haue and ane fire in the midde flure: and the fire being scattered, the miln is brunt

brunt with the twa scheip, and the horse. It is demanded quha fall answer for this skeath and damage?

2. It is answered, the awner of the horse fall pay for the twa scheip: because the Kings hie way fould not be occupied be the horse.

3. And the miller fall answer for burning of the miln, for the horse and for the scheip, and for all other skeath and damage done in the miln. Because he left the miln open, and fire in it without ane keeper.

4. And it is to wit, that the kings way, or get, fould conteine in brede fourtene foote; in the quhilk na damage nor violence *Al. fourtie.* fould be done to any man.

THE PLACE QVHERE COVRTS SOULD
be halden. CHAP. 27.

IT is lesome to anie man to hald courts within his awne land, and heretage, in any part thereof quhere he please: Bot be the Law, he may not doe the samine without his land or heretage.

OF THEM QVHA MAY BE COMPELLED
to fecht or not. CHAP. 28.

IT is statute at *Scone*, be the king with consent of the communitie of this Realme, that gif ane knicht, or ane knichts sonne, or any free halder, quha halds his lands be knichts service, or any other man haldand his lands, anie other maner of way be chartour, in fee, or be free service, or be ward and releue: or any of their sonnes challenge any man, of reif, slauchter, theft, revising of women, or for any other crime, quherethrow battell may arise: it is lesome to them to cause their champions or ane midde persone to fecht against the defender, at the bridge of *Stirling* in the kings court, or in any other court.

2. And speciallic gif the appealer affirme in his appeale in judgement and in plaine court, that he will proue the crime against the defender: as ane quha is ane free man, and hes men for proving of sic crime against him quhom he may substitute for him, and in his place.

3. Bot fermors borne of husband men, or of ane base progenie, or blude, or husband men, or others, quha hes na land, nor heretage, may not ficht for the libertie of their predicet flours,
bot

The Statutes of,

bot in their awne proper persons.

4. Bot their maisters and lords in quhais lands they dwell, may cause midde persons fight for the damage and skeath done to them be wicked and euill malefactours: swa that they quha receaved the skeath fall not be compelled to fight for that caule; bot sic others, as their maisters pleis. Because be the Law the bodie and all the gudes and geir of the tenant, sould be readie for the protection and defence of his maister.

THE COMPLICES SOULD NOT BE PV-
nished before the principall malefactour.

CHAP. 29.

Lib. 4. c. 26.

Quon. Attach. c. 83

IT is statute and ordained in the parliament halden at *Scone*, be the king and communitie of this Realme; that the judgement of the resetter of anie malefactour quha is to be accused or challenged, sould be superseded and delayed: ay and quhile the malefactour quha is to be accused, salbe first judged (*and discussed*) And gif the principall trespassour is clenged: the resetter salbe likewise quite and cleane without any Assise. And gif he be filed and condemned: the resetter fall thoill and suffer ane Assise.

THE





THE PARLIAMENT H A L D E N A T S C O N E B E K I N G

DAVID THE SECVND THE

SAXT DAY OF NOVE M-

ber, the zeare of God,

1 3 4 7.

THE SCHIREF SOVLD DOE EQVALL

Justice, and answer for his deputis.

CHAP. 30.



It is statute, that gude and sufficient Schirefs sall be made & ordained, quha can, and will exerce and vse their offices: and doe justice to ilk man, as it becomes them to doe.

2. Quha sall haue gude and sufficient deputis and sergents: for quhom they salbe compelled and readie to answer.

3. And gif the Schirefs are in auld times infest in sic offices: and are vnmete to vse the offices in their proper persons: in this case, they sall present to the king, other gude and sufficient men, *Iac. 6. parl. 11. c. 80* to vse the offices in their place: for quhom they salbe answerable.

THE KINGS PEACE SOVLD BE GENE-

rallie kepted.

CHAP. 31.

Stat. 1. Rob. 1. c. 20.

Item, it is statute, that sure and firme peace be kepted and observed in all places within the Realme, amangis all the kings subjects being vnder his peace, swa that in time comming, na man sall make weir agains his neighbour quhatsumever; vnder the paine of ane full amerciament. *Iac. 1. parl. 1. c. 2. parl. 3. c. 51. Iac. 2. parl. 6. c. 13. parl. 14. c. 83. Iac. 3. parl. 13. c. 92.*

H

THE

The Statutes of, THE FREEDOM OF BURGESSIS.

CHAP. 32.

Quon. Attach. c. 54

All Burghis and burgessis, shall freelie enjoy, and bruike all their richts, liberties, and priviledges, vsed of before be them, in the time of gude peace. And that na man presume to oppresse them within burgh: or without the samine in any time cōming: vnder the paine of breaking the kings peace.

THE FREEDOM OF MERCHANTS

strangers. CHAP. 33.

*Leg. burg. c. 18.
Stat. Wilh. c. 37.*

All merchant strangers resortand fra quhatsoever place, shall be admitted to buy and sell, as of before hes bene constitute and ordained.

RECOGNITION OF LANDS HALDEN

of the King. CHAP. 34.

Stat. Wilh. c. 31.

Stat. Rob. 3. c. 19.

4.

Git anie man ane his haill heretage or tenement, quhilk he holds of the king in cheif, or the maist part, without the kings speciall licence (*consent, or confirmation*) the samine lands shall be taken in the kings hands, and shall be recognised be him.

OF ENGLISH MONEY. CHAP. 35.

It is statute, that all the gude cunzie, or money of the King of England, gold, and siluer, shall be receaved within this Realme of Scotland, conforme to the trew valcur as it giues in England.

OF THEM QVHA HERBEREIS WITHIN

Burgh or without. CHAP. 36.

Supr. c. 11. h. t.

Stat. Wilh. c. 30.

In all Burghis, all they quha sellis bread and aill, shall receave passengers in herberie within their houses: and shall furnishe and sell to them all necessaries: and of na greater price then they wald sell to their neighbours.

2. And all they quha are sva receaved in herberie, within Innes, in Burgh and without: shall take na thing fra their hostis, against their will.

3. Bot they shall buy fra them their necessaries for competent price: and shall make full payment thereof.

4. And gif they passe away not payand for that quhilk they haue receaved: they shall be arrested in the kings name, be the communitie of the burgh, or of the cuntrie quhere they committed the

the fault. And they fall stand to their awne perill, gif they happen to receaue any skeath, in making resistence to the said arrestment.

MONEY SOULD NOT BE TRANSPOR-
ted furth of the Realme. CHAP. 37.

IT is statute that the kings money, that is stirlin money, fall not be caried furth of the Realme, be merchants of the Realme, or stranger merchants, clerks, or others quhatsoemeuer: Except they pay to the king, for ilk pound halfe ane mark.

NEW CVNZIE TO BE STRIKEN.

CHAP. 38.

IT is statute, that new cunzie salbe striken of that mater quhilk is now brocht within the Realme: and that it be equivalent, & conforme to the current money of *England* in wecht & fines. *King David. 2. in his parliament. 1365.*

2. And ane notable signe salbe vpon it, quhereby it may be evidently knawen fra all other money alreadie striken: ay and quhile in the next parliament, this mater may be mair ripely advised.

3. And in the meane time the Chalmerlane fall agree in the best maner he can, with the maister of the cunzie houle, and the workmen anent their fees.

THE INSTITVTION OF THE TRONE.

CHAP. 39.

IT is statute, that the Chalmerlane fall cause big, and mak ane Trone for weying of woll in all the Kings burghis, and in all the portis of the Realme. *David. 2. in his parliament. 1365.*

2. And in ilk place, there salbe ane maister of the Trone, quha fall receaue fra the King, ane pennie for ilk seck of woll (*quhilk conteines twentie foure stanes*)

3. There salbe ane clerk of the Trone; quha also may be clerk of the kings cocquet, gif the Lords of the counsaill fall think that to be expedient.

4. For the custumars may haue ane clerk gif they please vpon their awne expenses: And the clerk of the cocquet, fall controll beath the custumars, and the Tronaris.

TAKING OF THE KINGS PRISES.

CHAP. 40.

THE king in his parliament at the instance and request of his three estates hes granted and consented, that na thing salbe *David. 2. in his parliament. 1366. Infr. h.t.c. 48.c. 52.*
taken

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taken fra them to the kings vse, without readie payment.

2. Nor yit that anie thing salbe taken as prises to the King, bot in sic places as vse and wont was.

3. And the samine salbe takin in the dew time vsed of before: and that dew and readie payment be giuen and made therfore.

IVSTICE SOULD BE DONE EQVALLIE, *notwithstanding of the kings command.* CHAP. 41.

*Stat. 1. Rob. 1. c. 2.
Sup. h. t. c. 18.*

IT is statute be the king with consent of the three estates: That common justice fall be done to all men; without favour to be schawen to any man: and without exception to any persone.

2. And that briefes or letters raised furth of the kings chappell or chancellarie, or be other Judges for doing of justice: fall not be revoked (*called back againe, or discharged*) be other letters, vnder quhatsumeuer the Kings seale. Bot it salbe lesome to all Judges, to quhom sic letters are directed, notwithstanding of them to doe justice: and to indors the saidis letters, and send them back againe.

FREDOM OF HALIE KIRK. CHAP. 42.

Stat. 1. Rob. 1. c. 5.

IT is statute be the king, that kirkmen, and kirklands given and disposed in name of almes, fall injoy and possesse their liberties and priuiledges.

2. And that na mae burdings, or impositions salbe laid or imposed vpon them; bot onlie these, quhilk are granted and imposed in parliament.

3. And gif any man stop or stay them, to set their reyns in tak and alledation: that they be corrected and punished be the king, at the desire of them quha compleins thereanent, and are hurt and skeathed thereby: to the effect they may peaceablie bruik and posses their reyns in their awne integritie; vnder the pane of excommunication concerning kirkmen: and the vnlaw often punds to the king.

NA MAN SALBE OPPRESSED WITH *pasturage of horse.* CHAP. 43.

IT is statute, that na man salbe send with horse to be wintered in time of winter, with religious men, persons, vicars, or husband men.

4. And

2. And that na man be send with anie horse in the cuntrie; to consume the gudes, victuall, medowes of husband men, or of others. And that na man presume to doe the samine, vnder sic paine, as may be imposed according to the quantitie of the crime and qualitie of the persone.

REMISSIONS OF CRYMES GIVEN BE
the King. CHAP. 44.

Item it is statut, that remissiōs givē or to be giuē be the King, for quhatsumever transgressiōs, fall be null, & of na avail: except the partie be satisfied within zear and day, efter the date thereof. *Lib. 4. c. 17. Infr. h. t. c. 50.*

2. Except it manifestlie stand be them (*the partie*) have and entres the quhilk fall be sufficientlie verified and proven, be them to quhom the remissions are given and granted.

TRAVELLERS THROW THE REALME.
CHAP. 45.

1. **I**tem na Prelat, Erle, nor Barron, or vther persone Ecclesiastical, or secular, of quhatsumever cōdition or estait, sal ryde with ane greater familie (*number*) of men and hors; nor is convenient, or decent to his estate, to the destruction of the cuntrie. *Stat. wilh. 1. c. 38. Jac. 1. parl. 1. c. 5. Jac. 5. parl. 4. c. 27.*

2. And that no man haue in his companie, rydand with him men with speirs, or archers with bowes throw the cuntrey.

3. Except he haue ane resonable cause: quhareanent he fall make faith to the Kings officiars, gif they mak any question or complaint, vnder the paine of imprisoning of their bodies.

STRIKING OF NEW CVNZIE.

CHAP. 46.

IT is statut and ordeined, that forsamkill as there is great raritie, and skantnes within the Realme, at this present tyme, of silver; that thairfoir ane new cunzie be strikin, in maner following. *David. 2. in his parliament. 1367.*

2. That is, that the pund of silver fall be made lesse in wecht, ten pennie wecht: swa that of the pound wecht at this tyme, fall be made tuentie nyne shillings and foure penneis numerall.

3. Quhairof fall be brocht in to our vse, seven pennies.

4. And the Watdane of the money, fall haue ane pennie for his labours.

5. And the Maister of the money, for himself, and for his workmen, and for sic vther things, as be reason of his office, he

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is oblisit to doe; fall haue ellevin penneis.

6. And swa remains to be takin vp of the pound wecht, tuentie seaven shillings, and nyn penneis.

7. And the money quhilk fall be striken, fall be als gude and als fin in mater, as the money quhilk now presentlie is striken within the Realme of England: Or as that mony, quhilk before this present ordinance, was last ordeined to be made & striken within this Realme.

THEY QVHA ARE CHOSEN COVNSA-
lours alennerlie sould be present at the Kings Counsal.

CHAP. 47.

Stat. Rob. 2. c. 1.

IT is statut that na man of quhatsumever estate, degrie or preheminnence, fall bring with him in (*the Counsale house*) or to the Kings counfall, ony vther man as counsalor, or assessor to him except onlie these persons quha ar elected and chosin be the Coucell, and Estates, or communities.

TAKING VP OF THE KINGS PRISES.

CHAP. 48.

Item it is statut, that fra this tyme furth that all pryces, and all things quhilk fall be taken for the Kings expentes (*in his house*) fall be lauchfulie and fullie satisfied & payed, to them fra quhom they are taken.

2. And all things quhilk suld be taken, fall be taken conform to auld allowed vse and custome, and furth of sic lands out of the quhilk the Kings prises and service suld be taken.

3. And that in sic prises, or vther provisioun to be made: the taxation fall not be according to the number of the dawach of land, or of the barroneis: bot conform to the true valor of the guds (*movable*).

THE CVSTVME OF MONEY, HORS,
oxin, kye, transported furth of the Realme. CHAP. 49.

IT is statut, that na induellars of this Realme, or out duellars of quhatsumever condition, estate, or degrie, fall carie furth of the Realme, ony gold, or silver.

2. Bot only samekle as is necessar for expenses, to sic persons to quhom it is lesum to pas furth of the Realme.

3. Except he pay for ilk pound, fourtie penneis to the king, in name of custume.

4. And quha buys horst to be caried auay: he fall pay fourtie penneis of ilk pound of the pryce of the hors.

5. And

5. And for ilk ox, or kow bocht, he fall pay tuelue penneis, without ony diminution or discharge.

6. With the quhilk custumes, Shirefs, Baillies of burrowes, or the custumers fall be charged in their compts in the Exchequer.

7. And because this is lang tyme bygane statut and ordeined: and renewed in the Cheker quhilk was last haldin: command is given in vreit, to Shirifs, baillies, custumers of borrowes, quha at command of the Chamberlaine hes intrometted with the vptaking of the said custume that with al possible diligence, they sal cause take and apprehend, all & findre them, quha hes not payed the foresaid custume, in ony time bygane since the constitutiō was made thereanent: and compell them to pay the samin: in sa far as may be verified, anent the quantitie of the money caried away furth of the Realme.

8. And gif any man be found with silver to be caried away: & hyds and conceiles the samin: he fall pay tuentie shillings sterling for ilk pēnie of the custume of the said money (*quhilk was conceild*

9. Mair over it is statut, anent the exportation and careing away of money not custumed: & anent the conceiling of the custume of money, hors, and of vther beastes sauld & bocht: that dittay sal be taken vp & challenge sal be made there anent before the Justitiar in sa far as cōcernes the induellers within the Realm.

10. Gif ony stranger duelland without the Realme, brings in money within the Realme: and preves that he iubrocht the sam furth of ane vther Realme, he may carie that silver onlie, furth of this Realme frelie without payment of ony custume.

REMISSIONS SVLD NOT BE GIVEN

for wilfull slaughter. CHAP. 50.

NA man quha in ony tyme cumming is to seik ane remission of, slaughter, fall be hard to seik the samin: except first ane inquisitiō be takeē in the place quhair the slaughter was cōmitted be persons vnsuspect, of the maner, & quantitie of the slaughter.

2. And efter that the inquisition is returned or reported, gif it may be verified that the slaughter was committed be murther, or forethocht felonie, or malice: the King hes promised and granted that for sic slaughter, he fall not giue ane remission, at the instance of quhatsumever person, except it be given with the consent and advyse of the generall counfall: gif they fall think it expedient, for the common weall of the Realme.

3. Con-

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3. Concerning remissions to be given for crymes (*committed be ane juddentie, or ane chaud-mellee*) gif ony fall happin to be committed, as GOD forbid; the King will advise himself with his gude Councell: and sail do that, quhilk fall be thocht and found maist expedient to be done.

THE RECORD OF THE SUMMONDS

to be made be the Sergeants of the Court.

CHAP. 51.

CConcerning the record to be made be the sergeants, or be the Mair: It is statut that the summonds (*the indorsation or exsecution*) fall be put in write, gif it pleis the sergent, or the Mair: and fall be red be him in the court, gif he can reid.

2. Otherwais he fall mak record, (*report or reherfall*) be word the best way he may or can do.

3. And gif he failzeis: the Judge fall help, and supplie him be interrogators, anent everie point and article, vsed and vont in ilk point of the record of ane summons.

4. The sergent or the Mair, fall prove be lauchfull witnes all and haill the points and articles of his record, of the summons.

5. Swa that na exception fall be competent to the partie adverfar, contrair the sergeants or mairs record, in default of not making thereof, as said is.

6. And swa it fall be lesum to the Shiref, his deput, sergent, or mair of fee, or to ony vther made and constitut, or servand in the place of the sergent, or of the Mair of fee (*Shiref in that part*) be the Kings auctoritie or ony vther haue and power to that effect, be the consuetude, or be the law to mak (*to exsecut*) summons & records: swa that they be persons abill to mak the samin.

PRISES MAY BĒ TAKIN VP WITHIN

all parts of the Realme. CHAP. 52.

ITem, for releif of the inward parts of the Realme, quhair woll hes course, and quhilks ar burdened with customs; & that the remanent parts of the Realme, may be made equall with them in all services and burdings: It is statut, that certane summes and quantitie of wi&tuall, quhareof thair is abundance in these vtward parts (*sik as marts, beir, & schyk*) fall be takin vp zeirlic, at the Chamberlains command, to the expenses of the Kings house according to the pryces, quhilks in auld tymes vsed to be takin vp in these places.

2. Or vther-

*Lib. 1. c. 6. 3.
Quon. Attach. c.
56.*

2. Or otherwaies gif the king please; to passe thither with his court in proper persone, and tarie their certaine time convenient: And to burding these parties lauchfullie, and releivand o-ther partis of the Realme: that thereby these outward partis might be made equall with the inward partis, anent all burdings and services.

3. The outward partis are *Kyntir*, *Knapdail*, *Arane*, the dominions of *John Lord of the Isles*, and of *John of Lorne*, and *Gillespie Cambell*.

T H E



IN MY DEFENCE

GOD ME DEFEND.



THE PARLIAMENT HALDEN AT SCONE THE SECVND

DAY OF MAIL, THE ZEIR OF GOD
1372. BE KING ROBERT THE SECVND OF THAT
NAME, AND FIRST OF THE SVRNAME OF THE
STEWARDS. BECAUSE SCHE WAS NEPHEW TO KING
Robert the first, gotten and procreat betwix *VValter Steward*,
and *Majorie Bruise*, dochter to King *Robert* the first, and halfe sister
be the father side, to King *David* the secund, he was crowned

King 26. day of March. 1371. he did Reigne 19. zeares.

And deceased 17. Aprill. 1390.

THE CHOSEN COVNSALOVRS SOULD
be onlie present at the Kings counsaill. CHAP. 1.



FIRST AND PRINCIPALLIE,
it is ordeined, that na chosen counsalour, of
quhat somcuer condition, degree, prehe-
minence, or estate he be, fall bring anie o-
ther man, quha is not chosen with him to
the Kings counsell, as ane counsailour, or
Allesfour to him, or for anie other cause.

THE JVDGE SOULD NOT TAKE FRA
the creditour, ane part of the debt.

CHAP. 2.

NA Schiref, Baillie, Sergeant, or Mair, fall dar or presume to
begge, or desire be him selfe, or be any other man, any ma-
ner

ner of way fra the inhabitants of the cuntrie, to remit, discharge, or to giue done any part of the summes of money, or of the debt, aucht and to them.

INQUISITION SOULD BE TAKEN,

quhither slauchter be voluntarie, or casuall.

CHAP. 3.

Exod.c.21.13.

Iac.1.parl.6.c.95.

c.96. with diuers

other chapours.

IT is statute with consent of the three estates, that because sundrie and diuers slaughters hes bene committed before the time of this parliament; And that Justice could not be done swa haillie as it sould haue bene done for the common quietnes of the Realme, for the punisment of the saidis slaughters conforme to the Law. The King fra this time furth, will cause take inquisition be ane Assise, gif the slauchter was committed of ane certaine and deliberate purpose, that is, by murther and for thocht felonie: or be ane hastie here anger, that is *chaudmelle*.

2. And gif it be found be ane Assise, that the slauchter was committed be murther, or be forethocht felonie: incontinent justice fall be done.

3. Bot gif it be done be *chaudmelle*: the committer thereof fall haue delay to vse his lauchfull defenses, be the Lawes of the Realme, and the consuetude keeped and observed in time by-gane.

4. And all this hes and fall haue place quhen the slauchter is notorious, and the committer thereof is notoriousslie knawne.

ANE MAN-SLAYER BEING FVGITIVE,

may be banished.

CHAP. 4.

IN case ane manslayer be for thocht felonie, or be murther, can not be apprehended, bot is fugitiue: ane publick proclamation salbe made be the Schiref at the Kings manour: charging and sic ane manslayer to compeir, and present him self in court, before the Schiref, or anie other depute be the king: within fourtie dayes after committing of the slauchter. *Iac.3.parl.6.42. parl.13.100.*

2. To heare and see it to be knawne, quhither the slauchter was committed be fore-thocht felonie or not.

3. With certification, and he compeir not fra that time furth, he salbe perpetuallie banished, and exiled.

4. And his gudes salbe confiscat to the kings vse; or to the vse

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vse of sicane Baron, to quhom sic like gudes may perteine as escheit.

5. And his lands gif he any hes, salbe confiscat, induring his life time, and applied to the kings vse, or to the baron, conforme to the lawes of this Realme, vsed and obserued in time bygane.

SLAUGHTER WITHIN REGALITEIS, or baroneis. CHAP. 5.

THe officers (*and Judges*) within all regaliteis and baroneis, fall keepe and obserue all the premisses, in sic maner as the kings minister of law sould doe; quhen, and als oft, as slauchter happens to be committed within the regalitie, or the baronie: And failzeing they doe not: in their default, the kings officers fall doe the samine.

SLAUGHTER COMMITTED BE *chaudmellee*. CHAP. 6.

ITem, it is statute, that all mensleyers quha hes bene persewed and challenged for slauchter done be *chaudmellee*, vpon the south side of the water of *Forth*: fall not be heard after the seaventh day, that the proces is begun. Nor vpon the north side of the samine water; after the fourt day, that the proces is intended; to propone exceptions dilatouris or frivoll: bot the saidis frivoll and dilatour exceptions being omitted, incontinent the proces fall pas fordwart.

LAWES ARE EXTENDED TO THINGS *to come*. CHAP. 7.

IT is statute, that the statutes foresaidis salbe extended onlieto things to come, and following hereafter: and not to time bygane; nor to sic proces as presentlie depends. In the quhilk things bygane and dependand, the lawes vsed and obserued of before, fall haue place.

OF SLAUGHTER COMMITTED BEFORE *this parliament*. CHAP. 8.

IT is statute anent them quha committed slauchter before this parliament or statute: that gif they within fourtie dayes, fra the time of the proclamation of this statute, compeir, and present

sent them selues to the common law : they salbe treated and judged, conforme to the common Law of this Realme vied of before this time.

2. Bot gif they will not compeir, and present them selues : or refuses to vnderlie the cōmon law : in that case & therafter, they fall incurre the paine of the statute aboue written : and salbe punished as said is be confiscation of their lands & moueable gudes.

ANE MANSLEYAR FLIAND TO THE
girth. CHAP. 9.

Item, how oft ane manslayer takes him self to the immunitie of the kirk : he sould be admonished, and required to come furth, and present him to the law : to knaw, gif the slauchter was committed be forthocht felonie, or murder.

Stat. Will. c. 5.
Stat. Alex. c. 6.

2. And gif he being admonished, and required, will not come furth, and present him self : fra that time furth in all time thereafter, he salbe banished, and exiled, as ane committer of murder be forthocht felonie : keipand and reservand to him the immunitie of the kirk, to the quhilk he tuke himself.

3. And gif he compeirs, and presents him self to the law and justice : and it be tryed be ane Assise, that the slauchter was committed be ane chaudmellee : he fall be restored, and entered to the immunitie of the kirk, as of before.

4. And he fall make securitie to the Schiref, anent that crime, before he pas furth of the immunitie, or girth, to the quhilk he did fle.

RESETTERS OF MENSLAYERS.

CHAP. 10.

Gif any man is challenged for resetting of ane manslayer : the kings officers of law, sould inquire the veritie of him.

Malc. 2. c. 10.
Stat Will. c. 7.
Iac. 1. parl. 2. c. 37.
Iac. 5. parl. 7. c. 9.

2. And gif he confes that he reset the manslayer : he fall find caution, and fall make securitie that in time comming, he fall not doe the like.

3. And that he fall doe all his diligence after his power, to arrest and take the manslayer, gif he may any way doe the samine.

4. And that he being required, he fall pas personallie, or send some other man, with the kings ministers and servants, or the Barons, to take and apprehend him.

5. Bot gif he denies that he resettis any manslayer : Nevertheless

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theles being required be the Kings Ministers, or the Barons. he fall doe his diligence after his power, as said is.

6. Gif their be ane vehement suspition of any man, anent the resetting of menslayers: he sould be arreisted be the kings ministers, or the barons, and be lowfed and made frie vnder sicker and sure pledges. Or gif he hes any notable heretage: he sal be pledge for him self, to compeir and answer as law will, quhen, quhair, and before quhom, the crime may maist hastlie and best be tryed in the court of the baron, Schiref, Justitiar, or in the kings Parliament.

7. Gif ane man is ane notorious & manifest resetter of manslaughterers: and is convict thereof be the kings Ministers (*and Judges*) he sould be punished as the manslayer, in maner foresaid be confiscation of his lands, and gudes induring his lifetime.

Robertus 2. apud
Monasterium Sancte
Crucis de E-
dinburgh in me-
se Novemb. Ann.
Regni ejusdem 14.

OF MUTILATION, WOUNDING, AND beating. CHAP. 11.

GIf ane man mutilats ane other, or wounds, or beates him, be forthocht felonie: and the partie grieved persewes him before ane Judge, either be seyt (*be ane Assise*) or be complaint: sic forme and order of proces sal be ledde, and deduced agains sic ane trespassour, as is ordained agains ane manslayer, vntill he compeir at ane peremptour day: at the quhilk day he fall pasto the knowledge of ane Assise.

2. And gif he be convict thairanent be the Assise: he fall buy and redeme his life fra the Judge and Majour; be the consideration of the Judge, he fall satisfye the partie damnified.

3. And gif he be not persewed be the partie: he sal be indited bereaten of that deid: and fall compeir before the Justitiar in his aire; and fall thoill ane Assise without delay, or cillonzie: And gif he happens to be convict, he fall buy and redeme his life, and fall allyth the partie skaithed.

OF KETHARINES, OR SORNERIS.

CHAP. 12.

IT is statute and ordained, that na man fall travell throw the cuntrie, in anie part of the Realme, as ketharans. And they quha travellis as ketharans, eat and the cuntrie, and consumand the gudes of the inhabitants, takand their gudes be force and violence (*except they lauchfullie buy the samine, or receive the same*)

Robert. 3. c. 42.

mine with gude will of the owners) The king commands his faithfull subjects, that they fall arrest all sic persones committand sic reif; and bring them to his ministers of Law, that they may doe justice vpon them, as rebellis incontinent.

2. And gif they will not be arrested, and makand resistance, happen to be slaine: they quha slayes them, salbe frie, and na way punished therefore.

3. And all ^afrieholders within the Realme, within quha is do- ^a *In latine, domini* minion or custodie sic ketharans fall happen to be conversant, or to be vagabonds, fall doe all their faithfull diligence, to cause them to be arrested, and fall doe full justice incontinent vpon them, as said is.

4. And gif it fall happen, that the King, or ^b his lieutenant, ^b *The Earle of Carrick, quha* fall haue any suspition of anie Lord, or frieholder: or gif complaint beis made, that they doe not their diligence in this poynt, *ther after was called Robert 3. and was father to king James 1.* as said is: the king, or his lieutenant, fall call the said Lord to compare personallie before him at ane certaine day and place: and there he fall choill ane assise. And being filed, and convict, he fall be deprived of his office, gif he any hes vnder the king; and fall incur sic reprimand as effeiris.

THE KINGS OFFICIARIS MAY BE PUNISHED for evill execution of their office. CHAP. 13.

IN all and findrie the poynts forsaidis concerning the offices of Justitiaries, Schirefs, and others ministeris, they all fall abide the kings accusation and challenge, or of his lieutenant. And fall choill ane Assise, anent the execution of their offices, tuiching the poynts forsaidis: all oft as suspition arises, or complaint is made of them. Robert. 3. c. 33.

2. And gif they happen to be convict be ane Assise, they fall tene and amitt their offices. And mairover, fall vnderly sic paine as fall please the king, or his lieutenant, with advise of the counsell to injoyne to them, conforme to the qualitie, and quantitie of the crime committed be them.

THE BAILLIES OF REGALITIES AND their Lords may be punished. CHAP. 14.

IT is statute and ordained, that all and findrie the poynts aboue mentioned, salbe extended to Regaliteis, and to all liberties Ecclesiasti-

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Ecclesiasticall and ciuill : and in ane like maner salbe keiped and observed in them all. And thereanent all they quha hes the like Regaliteis & liberties, salbe accused and challenged be the king, or his lieutenant, as said is of others.

2. And swa the Schirefs and Baillies of Regalities, salbe challenged before the Justitiar, gif they haue done their exact diligence anent these statutes or not : and thereanent fall passe to the knowledge of ane Assise.

3. And gif thereby they be found culpable, fautise, or negligent : all their landis and gudes salbe elcheit to the King, or to the Lord of the Regalitie : And their life salbe in the will of the king, or of the Lord of the Regalitie.

4. And in case the Lords of the Regalitie, does not their dewtie in punishing their Baillies, quha salbe found culpable, as said is : the Lords of Regaliteis salbe challenged before the king therefore, vpon the paine of tynsell, and amillion of their landis, and priuiledge of their Regalitie.

OF ANE MALEFACTOVR FVGITIVE.

CHAP. 15.

Vid. c. 14.

Robert. 3. c. 45.

QVhen ane man accused in any cause criminallie, fleis, or is fugitiue fra his awne Schiref, to ane other : the Schiref fra quhom he did fleie, and in quhais Schirefdome he did dwell and remaine, fall direct his letteris to the other Schiref, and certifie him of sic ane malefactour ; And that other Schiref fall cause him be summoned be ane sergent before witnesse, that he compeir before the Schiref fra quhom he did fleie, at ane certaine day assigned to him (*be the sergent in the summons*) to vnderly the declaration of ane Assise. Quhilk gif he does not : the day being bygane, incontinent he salbe taken be the kings Ministers ; and fall be punished as ane convict criminallie.

2. And gif he be fugitiue : he salbe denounced rebell, and put to the horne. And quherever he salbe apprehended, he salbe punished be sic ane paine, as is statute be the Law.

MALE-

MALEFACTOVS SOULD BE SVMMO-

*ned to compeir, and not comperand, sould be
denounced rebels. CHAP. 16.*

IT is statute, that in ilk Schirefdome inquisition be taken, and ^{Supr. c. 4.} in ilk regalitie within the Realme, the names of the transgressours, and malefactours be put in writ. And then the Schirefs and Baillies of Regaliteis, fall make publick proclamation in the principall places of the Schirefdome and Regalitie, the next market day, after the said Inquisition, at the paroche kirkis, or in other publick places, quhere there is maist confluence of people, that all the transgressours named in the said inquisition, fall compeir within fourtie dayes immediatlie following the said proclamation, and oblish them to compeir, and vnderly the Law, at ane certane peremptour day before the officers of the king, or of the Regalitie.

2. And he quha comes not within the said time, and offer him selfe to the Law as said is, within fourtie dayes, after the ichew and out rynnng of the saidis fourtie dayes, without remission salbe put to the horne be the Schiref.

PROMISE MADE BE THE KING, AND

*the aith made be the estates anent observation of
the Lawes. CHAP. 17.*

FOr fulfilling and observing of all the premisses, the king sa far as concernes him in his parliament, hes oblised him selfe in the word of ane Prince.

2. And the Earle of ^aCarrik constitute be the king for fulfilling of the premisses, sa far as tuiches him, gaue and made his aith the halie Eu-angellis being tuiched be him. <sup>a Robert. 3. father
to king James the
first.</sup>

3. And all and sindrie Prelates, and procuratours of the Prelates, and others of the clergie. All Earles, Baroneis, and Burgeses being present, personallie did solemlie sweir, and gif their eath, to keepe, obey, and fulfill all the poynts aboue writen, after their power, and sa far as was in them: and to mainteine, fortifie, and assist the said Earle of Carrik, made and constitute lieutenant vnder the King, for rewling of the Realme, observing of the Law, and administration of justice.

IN MY DEFENCE

GOD ME DEFEND.



THE PARLIAMENT HALDEN BE KING ROBERT THE

THRID, SONE TO KING ROBERT THE SE-
CVND, AT SCONE, VPON MOONDAY 21.
DAY OF FEBRVAR, THE ZEIR OF GOD 1400. AND
of his Reigne the threttene zeir; all BISCHOPS, ABBATS,
PRIORS, DVKES, ERLES, BARONS, FRIEHALDERS,
and BVRGESSES: haldand of our Sovereine LORD in
*cheif, being summoned and called, in maner
used & wont.*

OF THE BREIVE OF INQUEST, AND
of ane Retour. CHAP. 1.



IN THE PARLIAMENT FORE-
laid, forsamkill as divers and sin-
drie our Sovereine LORDs lieges,
hes beine manie wayes, vnjustlie
trubled and wexed in their lands,
and heretage; be inquisitions ta-
ken favorable, and be ignorant
persens: It is statut, that na Shi-
rif or vther the Kings minister, sall
cause ony breive of inquest to be
served, bot in his plaine court, be the maist sufficient & wor-
thie persons within his Jurisdiction.

2. Called and summoned vpon the premonition of fyvetene *lac. 4. parl. 6. c. 9.* dayes, to that effect.

3. And in tyme cumming, the Chancellor sall not direct ane precept of sailing vpon ane retour: except they quha wer vpon the inquest or attyle, depone and affirme in favors of him quha raised the breive, and did impetrat the inquisition; that the landes and tenements, conteined in the retour are in the hands of the King or of ane vther overlord, be the deceis of him to quhome he quha raised the breive, clames & alledges him to be neirest and lauchfull heir.

4. *Item*, the said retour, suld be sealed with the seales of some of them (*the maist part of them*) quha wer vpon the inquest and attyle, and also with the Shirets seale.

5. Als wa it is statut, that all Barons and frichalders halding of the King, sall haue ane proper seale for the kings service: as they are bound be the Law to doe. *lac. 1. parl. 9. c. 130*

6. And he quha hes not ane, sall be in the kings amerciamēt without remission, be way of dittay before the Justitiar.

7. They sall haue seales, and not signets: as vse hes beine in tyme bygane.

RECOGNITION OF LANDS. CHAP. 2.

I*tem*, forsamekill as divers and findrie the kings lieges, are troubled in their lands, be volunter and quyet recognitions, made be the overlords: It is statut that in tyme cūming na recognition of lands sall be made be the king, nor be na vther overlord: except ane reasonable and lauchfull cause be assigned & alledged, at the tyme of the recognition; for the quhilk the lands suld be recognized (*be the overlord against his tenent*).

2. And that the tenent (*possessor or vassall*) sall not tyn or losse his possession, be reason of ony sic recognition; vntill ane zeir and ane day, be bypast.

3. Provyding that he doe his diligence to repledge his lands, quhilks are recognised fra his overlord, within fourtie dayes nixt following efter the said recognition: gif he may find or meete with him.

4. And gif he can not find him; he sall pas to his overlords principall place, takand sufficient witnes with him: & offer him reddie

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readie to doe to his ourlord, anent the saidis landis, all quhilk he aucht and could doe be law.

5. And thereafter, quhen he comes to the presence of his ourlord, before the iuchew or outpalling of the zeare and day: he sall desire the landis to be lettin to him to borgh (*to be restored to him, he findand borgh and caution, to answer thereanent as Law wil.*)

6. Mairover, it is ordained, that all ouerlordis makand recognition of lands; and all vassallis, desirand the landis to be lettin to borgh, at the ourlordis cheif place, as said is: vpon the next sonday thereafter, in the time of preaching, or prayer, in the next paroche kirk, quhen the parochianeris are conveined; sall make manifest, and declare in vulgar language the said recognition; and also the desire of the landis to be lettin, to borgh: and the cause, for the quhilk the recognition is made.

7. And the samine salbe done be the vassall, quha desired the landis recognosed, to be lettin to him, to borgh: gif the ourlord refused to let them to borgh: or gif the vassall could not haue presence of his ourlord within the time prescribed.

THE HEIR OF THE LAST, AND youngest brother. CHAP. 3.

Quon. Attach.
6. 38.

Item, touching the auld statute, anent divers and findrie brother, and the youngest of them all, havand conquest landis, & decessand without ane heire gotten of his bodie: It is declared and determed, that the narrest borne brother aboue him, sall succed to him in the saidis landis as lauchfull heire, ascendand be degree to the immediat brother: as is contained in the said auld statute.

THE SUPERIORITIE MAY NOT BE analcid without the consent of the vassall.

CHAP. 4.

Item, touching divers and findrie gifts given be the king to baroneis, and to others of the superioritie of vassallis, haldand their landis of the king. It is statute, that all sic gifts, donations (*or alienations*) made or to be made without consent of the tenant or vassall salbe of na strength nor effect.

2. And that the said tenant, sall remaine tenant to the King;
except

except of his awne frie will, he acknowledge him to quhom the alienation is made, to be his overlord be vertew of the said alienation.

3. *Item*, concerning barons infest in their baroneis haldand of the King, and lyand within ane Earledom; or within ane other lordschip, being in the Kings hands: It is statute and ordained, that albeit in any time comming, the King infest anie man be his Chartour, in the said Earledome, or lordschip, with tenandreis and service of free tenants: the saidis barons, fall not be obliffed to hald their landis in cheif of anie man, bot of the King.

ANENT THE COMPLAINTS OF KIRK-
men, widowes, pupillis, and of the fatherlesse,
and motherlesse. CHAP. 5.

[T is generallie statute, and ordained, that the kings lieutenant *Exod. c. 22. 22.* (Robert Earle of Fyf and of Menteth, brother to the King) and others the kings Ministers, salbe bound and obliffed, to heare the cōplaints *simpliciter, et de plano* (without any forme of proces) and without any finding of pledges, of kirkmen, widowes, pupillis, and of them, quha are fatherlesse, and motherlesse anent all, and quhatsumever injureis done to them in their persones, or gudes and geir.

2. And the lieutenant after the hearing of the complaints, or his depute, fall cause inquisition, and tryall to be taken, gif the complaints be just and reasonable.

3. And gif they be found to be just & reasonable be the lieutenant, or be his deputis: lauchfull and just reformation salbe made to the complainers, without any forder delay of proces: and the committers of sic injuries, salbe puniffed conforme to the quantitie of the trespas.

LETTERS OF CAPTION, AND APPEL-
lations. CHAP. 6.

[T is statute, that all Justitiars, Schirefs, and others the Kings *Iac. 2. parl. 6. c. 12.* Ministers, fall await vpon, and answer to all letters of caption to be direct to them, be all Bischops, and their officialis: and fall cause make lawfull execution of the samine, conforme to the auld forme: notwithstanding any appellations, or reasons alledged,

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ledged, or proponed in the contrare.

2. Therefore gif anie of the kings lieges, findis him self excōmunicat be ane vnjust and wrangous proces: before the ischew, and end of fourtie dayes, he may appeale fra his Judge, to the Conservatour of the Clergie: quha with advise of his counsell, sail declare and reforme that vnjust proces.

3. And gif it appears to him, that the Conservatour does not justice; he may appeale fra him to the generall assemblie of the Clergie: before quhom sic complaints are ordained to be discusfed and declared in time comming; sa lang as this schisme and division indures in the kirk. To the quhilk ordinance, the Clergie, and the rest of the kings lieges, hes consented, induring the time of the schisme (*quhilk was betwix paip Urban the 6. and Clement the 6. contend and for the paipdome: quhilk beguid 1345. and indured untill the 1416*)

SLAYING OF SALMON. CHAP. 7.

Quon. Attach. c. 87
Stat. Alex. c. 16.
Jac. 1. parl. 1. c. 10.
Jac. 2. parl. 5. c. 9.
Parl. 14. c. 86.
Jac. 6. parl. 7. c. 111. **I**T is statute, that he quha salbe convict in any time hereafter, of slauchter of salmond in forbidden time; fall pay ane hundredth schillings generallie, thirchout the haill Realme.

2. And gif he is convict thrie times for this trespas and fault: he fall redeme, and make fine for his life.

LIBERTIE TO BVY VICTVALL.

CHAP. 8.

Vid. Jac. 2. parl. 6. c. 74.
parl. 9. c. 38.
c. 39. **I**T is statute, that all the kings lieges may buy victuall, generallie in anie part of the Realme: and may carie the samine freelic, quhere they please within the Realme: pay and therfore the custume.

WITNES IN INFESTMENTS GIVEN

be the King, upon resignation. CHAP. 9.

ITem, it is statute, gif anie resignation in time comming, be made in the kings hands, of any landis, or tenements: and ane new infestment pas be the king therevpon: the kings Secretare fall writ in the kings precept, to be direct to the Chancellor, the names of them quha was present, at the time of the making of the resignation, in the kings preience: And the Chancellor fall insert the samine names, & witnes in the infestment, to remaine in all time thereafter.

SLAVCH-

SLAUCHTER OF HAIREs. CHAP. 10.

IT is not lesume to slay haire in time of snaw : vnder the paine of sax schillings aucht penneis : to be vptaken without any remission, to the vse of the Lord of the ground and land. And in his default, to be vplifted be the Schiref to the kings vse. *14c. 2. parl. 14. 89.*

BVRNING OF MVRIS. CHAP. 11.

Item, it is statut, to be keiped & observed throw the haill Realm, that their salbe na Muirburne, or burning of hedir, bot in the moneth of March ; and not thereafter induring the time of Sommer, or of harvest : vnder the pane of fourtie schillings, to be vptaken without remission : to the vse of the Lord of the land, quhair the burning is made.

2. And gif the Lord of the land is negligent thereanent: it fall be ane poynt of dittay before the Justitiar: and in the mean time, the paine salbe taken vp to the kings vse.

TAKING OF POYNDIS. CHAP. 12.

Item, it is statute generallie be the king, that na man fall take ane poynd, without the Kings officers, or the Lords officers of the land : bot within his awne dominions, for his fermis, or proper debts.

2. And gif any man takand ane poynd without officers of the King, or of the Lord of the ground : trubles any mans lands, or takes, or carreis away any thing furth of them : that poynding before the lieutenant, or the Justitiar, salbe esteemed and halden as Reif, be dittay, or be pledge (*be borgh to be found be the poynder to compeir at ane certaine day*)

THE POSSESSION, AND THE FIE OF
lands recognosced. CHAP. 13.

IN Recognition of lands, quhilkis are justlie and dewlie socht to be lettin to borgh: nether the overlord, nor the tenant complainer, is in possession.

2. Because the overlords first possession, within the terme of fourtie dayes formallie is broken. And swa he is not in possession, because he entered not ; bot hes hope and richt to come to the lands: and swa the lands are not in the hands of the overlord.

3. For

The Statutes of,

3. For no man occupeis justlie the possession of recognosced lands, as in the hands of ane overlord, without ane decreit of ane Judge.

4. Mair over, gif lands are recognosced for ane cause: they sould be lettin to borgh to him, quha seikes them, he findand ane borgh to answer as law will.

5. And gif there be na cause of recognition: the samine is null conforme to the law of the Realme. And albeit the land or tenement is recognosced, for ane just cause, or for na cause: and quhither the tenant seikes the lands to be lettin to borgh, or seikes not: nevertheles the fie, and propertie of the lands, remaine with him: vntill the proces be ended, and determed agains him.

OF THEM QVHA SOULD NOT BE *repledged.* CHAP. 14.

Edward. 1. An. 3.
c. 15.

IT is statute, that they may not, nor sould not be repledged, or lettin lowse vpon pledges: quha are taken for manslauchter be the Kings command, or the Justitiars, breakers of the prison, common & notorious theifes, they quha are taken for burning, or felonie, falsifiers of money, or of the kings scale, persones excommunicat taken be command of the Bischop. *Item*, men taken for prodicion (*treason*) or for wickednes tuiching the King: Baillies, quha makes not just compts to their maisters, bot at the fute of the compt, restis awand to them arrieragis, and certaine summes. *Item*, all they, quha willinglie resistis to the kings command, be word, or be writ.

HE QVHA IS SPOLZEID OF HIS POS- *session, sould be first restored.* CHAP. 15.

Edward. 1. An. 3.
c. 23.

IT is statute, that quhen ane man is in possession of any land, or tenement, justlie, or vnjustlie; and ane man comes allegand him to be richteous heire of that land; and ejects him furth of possession, be his awne auctoritie, and without order of law: he quha was first in possession lauchfullie, or vnlauchfullie; sall at all times recover his possession, before he answer (*in the cause or pley*)

2. Because he quha is first in possession, justlie, or vnjustlie, sould ever be restored to his possession, and hald and keip the samine, or be order of law tine and losse the samine.

IN

IN QVHAT CASES SINGVLAR COM-

bat hes place.

CHAP. 16.

IT is statute, that in singular battell foure things are required. *First*, that the deed, for the quhilk the defender is appealed, is capitall, and may be punished be the death.

2. *Secundlie*, that it is quietlie and treasonable done and committed.

3. *Thirdlie*, that he quha is appealed, be haldin suspect, be conjectures, or probable suspitions and presumptions.

4. That the cause, or controversie, may not be proven otherwaise, bot be battell: and not be witnes, nor be instruments, letters, or be writ.

REVOCATION OF DONATIONS.

CHAP. 17.

ANe donation being made and perfited, commonlie, and regularlie, can not be revoked, or againe called.

2. Nevertheles for iust causes, it may be revoked, that is, for the vnthankfulnes of him to quhom it is made, as gif he put violent hands in the maker thereof: Or doe to him ane vehement or cruell injurie: or gif he works or makes to him ane great and heavie damage in his gudes and geir: or gif he presumes or attempts to him ane perill of his life.

3. *Item*, gif the donator fulfills not the condition adjected to the donation: as gif it be made for service to be done, and he doe not the service: in that case the donation may be revoked.

4. *Item*, it may be revoked, be reason of the turpitude and filthines of the paction and convention.

5. *Item*, for the enormitie of the giver, or maker of the donation: as gif the father being angrie, disheresis his sonne vnjustlie.

6. *Item*, for the fraud & dissait of the donatar: as gif ane Monk perswade fraudfullie, or allure ane laick or temporall man: and schaiue him that thereby he may haue all his gudes and geir.

7. *Item*, be reason of the nature and impotencie of the thing quhilk is given: as gif ane Ecclesiasticall thing, pertaining to the kirk, is given, or left in legacie.

THE FORME AND MANER OF DIS-

clamation.

CHAP. 18.

QVha disclaimes ane other (*denies him to be his overlord*) he sall pas personallie, or send ane sufficient actornay for him, to

K

the

The Statutes of,

the cheif messuage of the land, anent the quhilk the question is moved.

2. And gif ane aʒornay is send: he sall take with him his letter of aʒornay, and sall cause the samine to be first read in that place. And this salbe done, gif the principall persewer may not be personallie present with ane, or mae officers of the overlord, of quhom he claimes, and alledges him to hald the lands quhere anent the question is moved.

3. Together with sufficient witnes of divers dominions ly- and adjacent, and round about.

4. And there in that place, he be him self, or be his sufficient aʒornay; sall notifie and declare plainlie and fullie, ons, twise, thrise, with ane internall, and space of time betwixt ilk doing: that he halds not, nor intends (*nor is of purpose*) to hald sic lands of sic ane overlord, with sic service. And in this case, he commits him self, and all that is his, to the course (*disposition*) of the common law. Lauchfull distance, and termes of place, and time being observed to him, to answer thereanent.

FOR QUHAT CAUSES LANDS MAY

be recognosed.

CHAP. 19.

THese are the just and lauchfull causes, to recognose lands be the law of this land, be the overlord, agains his tenant or vassall.

Non entres.

The *first* is, gif the tenant happens to deceis: the overlord may recognose, and reteine the tenants lands halden of him: vntill they be recovered fra him, be the trew and lauchfull heire of the said tenant: or be some other heire of these lands.

2. The *secund* cause is, for the releiue of the lands: quhen the heir hes releived the lands furth of the hands of his overlord: the Lord may recognose them, vntill he receaue securitie for the relive, to be payed to him at certaine termes.

Quon. Attach.
c. 18.

1st. 1. parl. 4. c. 31.

3. The *thrid* cause is, quhen the tenant commits slauchter, and is fugitiue, and compeirs not to vnderly the law: the overlord may recognose the lands halden of him: sa lang as the felon (*malefactor*) lives naturallic.

Supr. c. 1. h. 1.
Stat. David. 2.
c. 34.

4. The *fourt*, gif the tenant ane leis his lands, without licence of his overlord: in that case, the overlord (*may recognose them,*
and

and thereafter) let them to borgh to his tenant.

5. *Fiftlie*, gif twa parteis contends, and be armes strives for the possion of any lands: the overlord may recognose the lands, vntill it be tryed and knawin to him, quhilk of them is the richt possessor: and that being knawin, he sall let them to borgh to him.

6. *Sixtlie*, lands may be recognosced be the overlord, for service auchtand to him, furth of the lands.

Lib. 2. c. 63. 10.

THE SKEATH OF WIDOWES, ANENT their dowarie. CHAP 20.

I*Tem*, anent widowes, quha after the deceis of their husbands, are expelled furth of their dowarie; or can not haue their quarantene without pley. It is statute and ordained, that quha deforces them (*deteines and withalds vnjustlie*) of their dowarie, and of their quarantene: of the lands quherin their husbands died, vest and failed: and the widowes be compelled to obtene be pley their dowaries, and quarantene: they quha are convict and condemned, of the vnjust deforcement and detention thereof: sall restore to the widowes, all their damage and skeath.

*Henr. 3. An 9. c. 7.
in magna Carta.*

2. That is, the valour of the haill dowarie perteining to them: from the time of the deceis of their husbands; vntill the day of the decreit, quhen the widowes obtained the possession of their dowarie, in the kings court.

3. And nevertheles, the committers of the dissaikin, sall remaine in the kings mercie (*unlaw*)

4. It is to wit, that widowes may leaue in legacie (*may dispon or analie*) their victuals of their lands, alsweill of their dowaries, as of their other lands or tenements: saifand and reservand the service awand to their overlords of their dowaries.

VSVRIE HES NA COVRSE AGAINES ane minour. CHAP 21.

I*T* is statute be the King, that vsurie sall na way rin, or haue course againes ane *minour* within age from the time of the death of his antecessour, to quhom he is heire: vntill his perfite age.

2. Nevertheles, payment sall not be stayed to be made to him: bot the principall debt salbe payed without any vsurie; together with the vsurie, quhilk was awand before the death of his predecessour, to quhom he is heire.

The Statutes of
THE ASSISE OF WEIGHTS AND
measures. CHAP. 22.

Iac. 1. parl. 4. c. 68. King *David's* common elne conteines threttie seven measu-
Edward. 3. An. 25. red inches, with the inches of three men; ane meikill, ane
c. 10. An. 27. c. 10. middill, and ane lytill: and sall stand conforme to the middill
An. 34. c. 5. inche: or conforme to thrie grains of bear without the tailis.

Henr. 7. An. 11. c. 4. 2. The stane to wey woll and other things, sould haue fivete-
An. 12. c. 5. tene pundis. Ane stane of walx, aucht. Twelue London pundis
makes ane stane.

3. Ane pound sould wey twentie five schillings: And this
was in the time of the Assises foresaid: and the pound conteines
fivetene vneces.

4. In the time of vmquhill king *Robert Bruise*, the great con-
questour, first of that name, the pound of silver cōteined twentie
sex shillings, & foure penneis: in respect of the minoration of the
pennie, or mony of that king, fra the mony of king *David* foresaid.

5. The vnec contened in the time of King *David* foresaid
twentie penneis. In the time of the said king *Robert* the first: it cō-
teined twentie ane penneis. Bot now in our dayes, that is of king
Robert the thrid, in the zeare of grace, 1393. the vnec of his mo-
ney conteines threttie twa penneis.

6. The *stirlin* in the time of the said king *David*, did wey
threttie twa graines of gude and round quheat: Bot now it is o-
therwaies, be reason of the minoration of the money.

7. Ane ~~man~~ sould contene twelue stane: the wecht quhere-
of conteines aucht pound.

8. The boll sould cōtein ane Sextarius, that is twelue gallons:
and salbe in the deipnes nine inches: with the thiknes of the tric,
in beath the sides. And in the Roundnes aboue, it sall cōtein thrie
score and twelue inches in the middis of the ower tric. And in the
inferiour roundnes, it sould contene thrie score eleven inches.

9. The Gallon sould contene twelue pound of water, that is,
of sic water, foure pound: of Rynnand water, foure pound: and
of standand water in stankis foure pound. *Item*, the gallon sould
contene in deipnes six inches, and ane halfe inch. And in the
inferiour braidnes, aucht inches, and ane halfe inche, with the
thicknes of the tric of beath the sides. And in the Roundnes a-
boue, it sould contene twentie seven inches and ane half. In the
inferiour roundnes, twentie thrie inches.

10. The

10. The inche in all measures, sould be measured at the ruit of the naill; and sould be in lenth conforme to thrie grains of gude bear, without tailis.

OF THE SCHIREF CLERK. CHAP. 23.

IT is statute, that ilk Schiref fall haue ane Clerk, depute to him be the king; quha fall not be bund nor oblissed to the Schiref. *Iac. 6. parl. 11. c. 71*

2. Bot salbe oblissed to the King allanerlie, and of his retinew, and ane of the Kings houshold, quhen he comes to the King; and fall doe all things with advise, and counsell of the King; and be his instructions, at all times advisand with the King, in all his doings.

THE SCHIREF SOULD HAVE THE

acts of Parliament. CHAP. 24.

Item, na Schiref fall pas haim, or returne fra the kings court, to vse or doe his office: vntill he haue the acts of Parliament with him: together with certaine instructions in writ: as salbe given to him be the kings counsaill.

THE SCHIRRIFFIE. CHAP. 25.

Item, the Schirefs sic salbe payed to him, furth of the extracts, *Leg. Malc. 2. c. 7.* and elcheits of his awne courts, and not otherwaies. And na sic *Henr. 8. An. 35. c. 16.* salbe given to him: vntill he first make compt (*in the cheker*)

THE SCIREF SOULD COMPEIR IN

the cheker. CHAP. 26.

Item, all Schirefs sould compeir zearlie in the cheker: or ane sufficient depute for him: haue and power to sweare for him: and in his faull: vnder the paine of ten pundis, and tynsell of his office at the kings will. *Iac. 6. parl. 11. 80.*

THE EXTRACT OF THE IUSTITI-

ars aire. CHAP. 27.

Item, ilk Justitiar or his depute, sould cause his Clerk bring in all the extracts of his Justice aire: within aucht dayes next following the fourtie dayes contained in the extracts. And gif in their default the saidis extracts are not imbrocht: that fall be imputed to them. *Iac. 6. parl. 12. c. 126.*

The Statutes of

2. In the cheker, allowance fall not be admitted thereof: Albeit ane delay or discharge be schawin & produced be the kings letters, after the terme forsaide.

ESCHEIT GVDES SOULD BE SAVLD.

CHAP. 28.

Item, the Schiref sould intromet with the escheits of malefactours: and gif he sells them, he fall sell them in the common market, publicklie and not privatlie; that all the kings lieges may know the prices thereof: and buy them gif they please.

PLEDGES BEFORE THE SCHIREF.

CHAP. 29.

*Stat. Alex. c. 10.
Iac. 5. parl. c. 34.
Iac. 6. parl. 6. c. 78.*

Item, the Schiref in all courts, and also in his awne courts, fall accuse na man without ane pledge, and the Kings brieve: And because many men excuses them be povertie: the pledges sould be sic men, as may pay the Kings law.

OF JUSTICE AIRES. CHAP. 30.

*Quon. Attach. c. 79
Iac. 2. parl. 3. c. 5.
Iac. 3. parl. 13. c. 94
Iac. 4. parl. 3. c. 29.
Iac. 6. parl. 11. c. 82.*

IT is statute, that Justitiars sal be beath vpon the southside, and the northside of the water of **Forth**. And that they fall hald their courts in ilk Schirefdome of their Jurisdiction, twise in the zeare: except they be stayed for ane great cause.

2. And gif the Justitiar, not haue and ane notable & reasonable impediment, pretermits to hald his court: he fall tyne his sic proportionallie: and fall also answer to the king thereanent.

THE SECVND DAY OF THE AIRE,

is peremptour.

CHAP. 31.

Iac. 5. parl. 4. c. 32.

IT is statute, that the proces of all causes deduced before the Justitiar, sal be abridged and inrolled be the Clerk. And in time bygane, the fourt court, or fourt day, was peremptour in all causes; except in causes concerning sic and heretage: Bot now (*and in time comming*) the secund court, or secund day sal be peremptour, and the last day.

2. And the partie being contumax (*be reason of his non compeirance*) in the secund court: sal be in sic estate at the horne (*sal be denounced rebell, and put to the horne*) or otherwaies; as vse was in the fourt court, in auld times and courts.

ARREST-

ARRESTMENTS MADE BE CROW-

ners. CHAP. 32.

Iac. I. parl. 13.

c. 139.

Item, the crowners fall haue power, to arreist persones indyted, all the zeare (*any day of the zeare*) at their awne pleasure and will: alsweill before the proclamation of the Justitiars aire, as after the samine.

IUSTITIARS WITHIN REGALITEIS.

Item, it is statute that Lords havand Regaliteis, fall hald justice aires twise in the zeare: and fall abridge and inroll, all his processis, as is said before of Justice aires.

2. And that all Schirefs within their Schirefdomes: and all Barones haueand power to hald courts in criminall causes; fall keipe and obferue the samine order in their processis.

THE CHALLENGE OF THE SCHIREF,

and others the Kings officers.

Iac. 3. 14. c. 103.

CHAP. 33.

Item, it is statute, that the Justitiars in their justice aires, fall challenge and accuse the Schirefs, and others the Kings officers: and fall take cognition in quhat maner they haue borne, or behaved them selues in exercing their offices.

2. And gif they find any fault: they fall remoue them fra their offices, vntill the next parliament. And he quha is removed, fall tyne his fie for that zeare.

3. Mairouer, the Justitiar fall take securitie vnder certaine paines, that he quha is removed, fall compeir in the next Parliament, to vnderly the determination, and punishment of the Parliament, for his fault. And he fall not be restored, except it be thocht expedient to the Parliament.

4. And quhen the Justitiar removes any from his office: he fall put ane other in his place, to doe justice to the people.

DIVISION OF THE HERETAGE

amongs many sisters. CHAP. 35.

IT happens sometime, that ane man haueand twa, or mae ldochters, giues to ane of them, ane portion of his lands: thereafter he dies: quhair throw ane cōtention rises amongs the sisters.

2. Because

The Statutes of,

2. Because sche quha hes na thing given to hir be hir father, desires that the portion, quherein the other sister was infest be the father, to be compted and allowed in hir part: or else that sche fall confer and cast it in, in common, betwixt hir and the rest of the sisters: swa that, ilk ane of them fall haue their part of it.

3. Contrariewayes, the sister, quha is infest as said is, contends to hald and retene that part or portion, as perteing to hir severallie, be reason of hir infestment; and not as ane part of hir fathers heretage: because hir father was not vested, and faised in it, the time of his decease. And swa sche alledges, that albeit hir father gaue hir, ane portion of his lands; sche sould not be excluded fra hir richt of hir fathers heretage: for thereby it is manifest, that hir father did loue hir mair tenderlie, then the rest of the sisters: and therefore augmented hir part mair nor the partes of the other sisters.

4. The answer is this: gif the father infest hir for homage, and service to be halden of the overlord: sche fall peaceablie bruik and posses that portion: and nevertheles salbe participant with the rest of hir sisters, in division of the heretage: because hir father augmented hir part. And swa gif the father does wiselie; sche salbe infest in that land to be halden of the superiour, in fie and propertie: at the least, to be halden of hir father induring his lifetime: and after his decease of the superiour.

5. Bot gif the land is given be the father to the said sister, in name of maritage (*or tochirgude*) in that case, it is necessare, that the land salbe conferred, & cassin in, with the rest of the heretage amongis all the sisters; and to be divided with the rest of the lands: Or that portion fall be compted and allowed in hir part (*as ane part of hir part*) and sche fall haue the rest of hir hail part, furth of the rest of the heretage and other lands. to make out sameikill as perteines to hir of the heretage.

SCHAWING OF HALDIN. CHAP 36.

IT is statute anent ane tenant or vassall, summoned to schaw his chartour (*or maner of halding to his overlord*) gif the tenant cornpeirs: the overlord may desire him to schaw to him, the chartour of the infestment of his land.

2. And gif he hes ane chartour: he sould schaw it: and gif he occupies the land otherwaies then his chartour propors: he fall tyne

tyne the land be dome, and sentence of court.

3. Gif he hides and conceiles his chartour quhilk he hes: and is convicte be ane Assise, that he hes ane chartour, and hides it: he fall tyne his land: for in this case, the tenant sould tyne the benefite of his chartour, conceiled and denied be him self.

4. And gif the tenant alledge that he saw, or had ane chartour of that land: zit he hes it not presentlie: he fall *voucher*, that is, affirme, that he halds that land, be ane other maner of halden (*then is alledged be the overlord*) be the tenour of the chartour quhilk is tynt: And gif it be found otherwaies be the Assise; then he affirmes: in that case, he fall tyne the land.

5. Gif he affirmes, that he hes not, nor ever had ane chartour, of that land: nor ever saw ane chartour of it. Gif he speakis trewlie, not conceil and the chartour: In that case, inquisition sal be taken be ane Assise, in quhat maner he sould hald that land: and that determination of the Assise, fall stand to him for ane chartour.

6. And gif he hes occupied the land otherwaies, then the Assise hes determed and delivered him to hald: in this case, he fall tyne the land quhilk he occupied, contrare the tenour of his chartour.

ALIENATION OF THE FERME OF *lands.* CHAP. 37.

GIf thy fermorer hes thy land set to him, to ane certeine time; it is lesome to him, to giue or sell the ferme thereof to quhom he pleases, before the terme: bot not after the terme.

NON ENTRES OF LANDS PERTEINS *to the overlord.* CHAP. 38.

IT is lesome to the King, quhen any baron deceiſſes, to saise in his awne hands (*to take possession*) of his lands and baronie: vn- *Sup. c. 19. h. 2.* till it be made manifest be ane inquisition or Assise, quha is heire, and gif he be richteous, and of perfite age.

2. Other inferiour overlords (*under the King*) may doe the like, quhen their tenants deceiſſes (*for the non entres of lands pertaines to the immediate overlord.*)

WITHIN

The Statutes of,

WITHIN WHAT TIME ANE SAISING

may be broken. CHAP. 39.

IT is statute, that gif any man recovers or takes saising be the brieve of Inquest, of any tenement or lands: and ane other man alledges him to be sailed in the samine tenement, or land: It is lesome to him, to breake that saising, within fivetene dayes: gif the lands be heretage. Or within fourtie dayes; gif the lands be conquest. And swa he may reteine and keipe his possession of the lands.

FVLE SWINE, OR CORRVRTED SAL-

mon, sould be not sauld. CHAP. 40.

IT is statute, that gif any man brings to the market corrupt swine, or salmond to be sauld, they salbe taken be the Baillies; and incontinent without any question, salbe send to the lipper felk.

2. And gif he quha sellis them, haue receaved any payment for them; he sall restore the samine without any difficultie to him quha bocht them.

3. And gif he will not consent to doe the samine, he salbe compelled and distrenzeid be the Baillies.

4. And gif there be na lipper folk: they salbe destroyed alluterlie.

THE KINGS OFFICIARS SOVLD BE

punished.

CHAP. 41.

*King Robert 3.
27. Januar. 1398.*

QWhere it is delivered, that the misgovernance of the Realme, and the default of the keeping of the common law, sould be imput to the kings officiars: Therefore gif it likes our Lord the King, he may at his liking gar call his officiars, to quhom he hes given commission, and accuse them in presence of his counsell. And their answer being hard, the counsell salbe readie to judge their defaults:

2. Because na man sould be condemned, quhile he be called and accused.

ALL

ALL MEN SOULD RIDE, AND GOE

in quiet maner. CHAP. 42.

Item, considering the great and horrible destructions, heir-*Rob.2.c.12.*
schippis burnings, and slaughters that are so commonlie done
throw all the kinrik. It is statute, and ordained, that ilk Schiref
of the kinrik, fall publiklie gar crie, that na man rydand or gang-
and in the cuntrie, lede mac persones with him, bot them that he
will make full payment for.

THE PAINE OF SLAUCHTER, REIF,

destructions and heirshippis. CHAP. 40.

IT is statute that na man vse any destruction, heirschippis, bir-
ning, Reif, slauchter, in time to come: vnder the paine of tyn-
sell of life and gudes (*moveable*)

MALEFACTOVS SOULD BE CHAR-

ged be the Schiref to compeir before the Justiciar.

CHAP. 44.

IT is statute and ordained, that ilk Schiref fall take diligent in-
quisition, gif any be common destroyers of the cuntrie. or hes
destroyed the kings lieges with heirschippis, slauchter, birning,
or eating of the cuntrie.

2. And gif any be findin of sic trespassours, the Schiref fall
doe all his diligence till arreist them. And he fall let them to
borgh, till compeir at next Justice aire, as day peremptour, ilk
ane vnder the paine of twentie pounds.

3. And he quha compeirs not at the next Justice aire, sal be at
the horne: and his borrowes fall pay the paine, and make allyth-
ment to the partie compleinand.

4. And gif any be, that may not find sic barrowes; the Schi-
refricht then, fall gif them the knowlege of ane Assise: And gif
he be taynt with the Assise, for sic ane trespassour, he sal be con-
demned to the death.

OF TRESPASSOVS FUGITIVE FRA

ane Schirefdome to ane other. CHAP. 45.

Item, gif any misdoer fleis out of ane Schirefdome to ane o-
ther, the Schiref that he fleis fra, fall wreit to the Schiref, in
quhais Shirefdome he is refet, biddand him on the Kings be-
halfe,

*Stat. Rob.2.c.4.
c.15.*

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half, that he arreist sic ane misdoer, and send him till him againe : to the quhilk bidding, the Schiref sal be halden till obey, and to send him againe : quha being send againe, he that he is send to, fall proceed in the maner foresaid.

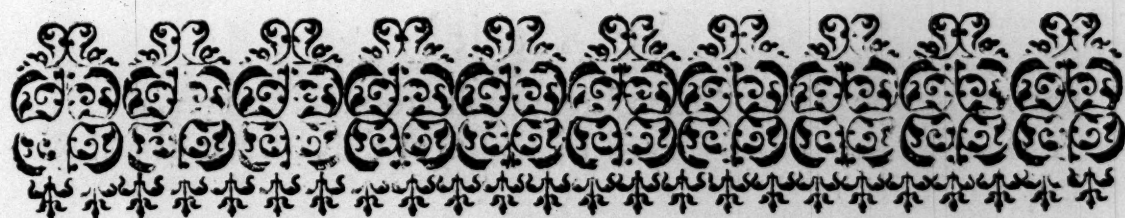
2. And in the samine maner, fall all Lords and officers of Regalteis answer to the Schirefs letters: And the Schiref to their letters, as to the arreisting of the fugitiues.

3. In the execution of the quhilkis arreists, all Barons, frieholders, and all other the Kings lieges, fall help and supplie the kings Schirefs, and all other officers of the Kings, at all their power, alsweill agains their awin men, and retinewes; as agains others. And gif any be founden faultie in that poynt, that he rises not with the Kings officers as is before said, and that may be proved before the Justitiar, either with witnes, or with Assise : he fall pay ten pounds to the King without remission.

4. Vpon these articles the Justitiar in ilk Justice aire, fall take knowledge, als vpon the Schirefs, gif they doe dewlie their office in execution of this statute : as vpon all others, that supplies not the Kings ministers, in the maner before said.

THE





THE TABLE OF ALL THE PRIN- CIPALL MATTERS AND CONTENTS, OF THE BVKES PRE- CEEDING.

☞ THE FIRST NVMBER, SIGNIFIES
the chaptour: the secund, declares
the verse.



ABSENCE, he quha being lawfullie summoned, is absent,
and compeirs not in any civill or criminall court, is fin-
drie wayes vnlawed according to the diversitie of the
courts. *Malcolm. 2. c. 8.*

In criminall causes quha is absent, and can not be per-
sonallie apprehended, his gudes may be arreisted. *Quon. Attach. c. 1. 7.*

Aneman being absent furth of the Realme, summoned vpon three-
score dayes, he may be summoned thereafter conforme to the com-
mon ordour of proces. *lib. 1. c. 8. 13.*

Absence may be hurtfull to him, quha is absent, and never profitable:
and swa in civill actions, ane Assise may proceed agains ane man ab-
sent being lawfullie summoned. *lib. 1. c. 12. 6. lib. 3. c. 28. 4. Quon. Attach.
c. 52. 8.*

Gif ane man called for warant of cattell challenged, compeirs not: he
fall pay to him quha is challenged, the tripill of the cattell. *lib. 1. c.
17. 5.*

He quha sellis any thing, and compeirs not to keip his pledge harme-
lesse and skaithlesse, salbe outlawed furth of the Realme. *lib. 1. c.
18. 3.*

Gif the defender tines in judgement the thing clamed, be reason of the
absence of his warant: the warant fall pay to him als meikill as he
tynt. *lib. 1. c. 21. 6.*

The debtour being absent, the wad is adjudged to the creditour: be
paction betwixt them, gif any was made: otherwaies, be decreit of
the Judge. *lib. 3. c. 3. 5. 6.*

He quha is absent, may not constitut ane procuratour: bot he quha is
absent,

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absent, may be made and constitut procuratour. *lib. 3. c. 15. 3. 4.*

Actions are not onlie delayed be reason of the absence of warants : bot also of the overlords. *lib. 1. c. 15. c. 24.*

He quha is absent the time of the dome given agains him, may falsifie the samine within fourtie dayes. *Quon. Attach. c. 13. 5. stat. Wilh. c. 10.*

The Lord of ane vnstrenzeabill tenement, may faise the samine in his awin hands, for the arrierages, and byrunne fermes, be reason of the absence of the tenant. *Quon. Attach. c. 46.*

Like as the overlord may doe the samine, for service awand to him. *Quon. Attach. c. 47.*

Arbiters may pronounce their decreit in absence of the parties. *lib. 2. c. 6. 4.*

Gif the overlord, quha renognosses his vassallis lands, is absent : and may not be found be the vassall : within zeare and day, his vassall may desire him to let his lands to borgh. *stat. Rob. 3. c. 2. 5.*

He quha is absent in the Justitiars secund court, may be outlawed. *stat. Rob. 3. c. 31.*

Prescription rinnes not, nor hes na course agains him quha is absent. *leg. Burg. c. 9. 2.*

Gif the Maister is absent at the Kings hoist, or in keiping of the kings castell, or at the Schiref court : his servand may not be poynded within Burgh. *leg. Burgh. c. 36.*

Ane burges may not sell his lands, except he offer them to his narrest heire : and gif the heire is absent, he salbe taried vpon, be the space of fourtie dayes. *leg. Burg. c. 45.*

Anent the absence of the persewer and of the defender. *vid. persewer, vid. defender. vid. probation. vid. default.*

Accuser sould be in all accusations criminall : for without ane accuser na man sould be condemned. *stat. David. 2 c. 2. leg. Burg. c. 41.*

Accuser either is ane certaine man : or incertaine, quhen ane is accused be way of dittay. *lib. 1. c. 1. 6. 7. lib. 4. c. 5. 4. 5.* Or be publick fame, *lib. 4. c. 13.* As be the fame and brute, of thrie, twa, or of ane barone. *stat. Alex. c. 13. stat. David. 2. c. 17.*

He quha accuses ane other of treason, sould finde ane borgh that he fall follow furth his accusation : gif he hes not pledges, he fall sweir to accuse. *lib. 4. c. 1. 7. mod. ten. cur. c. 4.*

Any man of lauchfull age, albeir he be ane husband man, may be accuser in this crime. *lib. 1. 4. c. 2.*

In the accusation of murther, or slauchter, the narrest of the blude is admitted to accuse : the wife for hir husbands death : the vassall for the death of his Lord and Maister : and the Lord for his vassalls death. *lib. 4. c. 5.*

In all accusations, the accuser fall find ane pledge to accuse. *stat. Rob. 3. c. 29. mod. ten. cur. c. 74.*

He quha finds ane pledge to persew, & wil not persew : or hes na plege to persew, is in the Kings mercie : and may be imprisoned. *stat. Alex. c. 10.*

c. 10. stat. 1. Rob. 1. c. 34.

Na man within burgh may be accused for breaking of the lawes: bot gif there be ane accuser. *leg. Burg. c. 41.*

Quhen damage or skaith is done to twa or mae men: he quha first accuses, is first hard. *leg. Burg. c. 87.*

Infamous persones may accuse na man. *stat. Wilh. c. 11. 7.*

The wife may not be compelled to accuse hir husband. *stat. Wilh. c. 19.*

The forme of accusation, the clame of the accuser, the answer of him quha is accused. *mod. ten. cur. c. 78. c. 79.*

Accused of lese majestie and treason, is attached be pledges, or imprisoned: albeit there be na certeine accuser. *lib. 4. c. 1. 10.*

Generallie, all they quha are accused of any crime, sould finde ane pledge. *stat. Rob. 3. c. 29. mod. ten. cur. c. 74.*

In all pleyes of felonie, he quha is accused, may be latten frie, vpon pledges, except for slauchter. *lib. 4. c. 1. 10.*

He quha is accused, and be reason of his auld age, or hurt of his bodie, is frie fra battell, salbe compelled to defend him self be fire and water. *lib. 4. c. 3.*

He quha is accused, hes in his will and election, to defend him selfe be ane Assise, or be battell. *lib. 4. c. 1. 13. Quon. Attach. c. 31. c. 61.*

The cause of the accusation sould be declared in the attachment, and in the summons. *Quon. Attach. c. 64.*

He quha is accused, is not oblissed to answer to ane accuser, vpon ane day, bot onlie anent ane crime. *Quon. Attach. c. 65.*

He quha is accused, may make thrie defaults, or failzeis. *mod. ten. cur. c. 76.*

And quhen he compeirs, he may propon his exceptions dilatories, and others. *mod. ten. cur. c. 77.*

He quha is accused, suppose he is absolved at the parties instance: nevertheles he may be persewed at the kings instance. *lib. 4. c. 28. mod. ten. cur. c. 81.*

All malefactours being accused, sould compeir in the Kings court. *stat. David. 2. c. 9.*

The trespassse is extinguished and abolished, gif the committer thereof happens to decease the time of the accusation. *Quon. Attach. c. 98.*

Acquittance, be the quhilk ane man is made quite and frie of ane crime lald to his charge. *vid. purgation.*

Advocation of causes, may be admitted be reason of the iniquitie, of the Judge in the inferiour court: or of his doubting, or ignorance of the cause. *lib. 2. c. 16. 24.*

Or quhen the inferiour court is proven to haue failzed in doing of Justice. *lib. 3. c. 20. c. 21.*

Gif the inferiour court hes done wrang: the action advocat fra it, sould not be remitted to it. *lib. 3. c. 21. 4.*

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ACTIONS may be advocat fra ane court, gif the soytors of the court, makes faith, that they can not decide the cause. *Quon. Attach. c. 14. vid. probation. vid. Soyours.*

Advocation of kirkes, gif any pley arise thereanent, the samine salbe decided before the Judge Ecclesiasticall. *lib. 1. c. 2.*

Advocation of kirks, may pertaine to ane woman, be reason of hir dowarie. *lib. 2. c. 16. 61. 67.*

It may pertaine to the overlord be reason of the warde. *lib. 2. c. 42 c. 45.*

The presentation is sufficient to him quha is presented, induring his lifetime: and gif he deceis, the time of the warde: the overlord may present ane other. *lib. 3. c. 33. vid. Patron.*

Age of heires, the full and perfite age of ane heire male of Knights service, is twentie one zeares. *Quon. Attach. c. 91. stat. 2. Rob. 1. c. 6.*

And of heretrice female, anent the end of hir warde, is fourtene zeare compleit.

The heire of ane Soccoman is of perfite age, quhen he is passed five-tene zeares.

The heire of ane Burges, is of perfite age, quhen he may tell siluer, measure claith, and doe others his fathers bussines. *lib. 2. c. 42.*

The question anent the age of ane heire, quhither he be minour, or majour, sould be decided be ane Affise. *lib. 2. c. 43.*

He quha alledges him self to be majour, sall proue the samine be ane Affise of aucht leill men. *lib. 3. c. 32. 19.*

The age, baith of Male and of female, in contracting of mariage, is fourtene zeares. *lib. 2. c. 48. Quon. Attach. c. 91. x. 92.*

Gif ane man is of the age of threescore zeares, he sould not be compelled to fight the singular combat. *lib. 4. c. 3. Leg. Burg. c. 24.*

Of the priviledge of ane minour, be reason of his lesse age. *vid. Minour.*

Aill the price thereof is divers, conforme to the price of the malt.

Gustats or taisters of Aill, may be accused in the chalmerlan aire *chalm. aire. c. 6. vid. Browsteris.*

Aires, some are narrest: and some are farrer: and of thir some are in the richt line: and some in the line collaterall. *lib. 2. c. 25.*

The overlord is the last heire. *lib. 2. c. 55.*

The bairne borne after his fathers death, succedeis as heire to his father. *stat. 2. Rob. 1. c. 27.*

Aires some are minours, some are majours, and others are, of quhais age there is ane doubt. *lib. 2. c. 40.*

Aires being of perfite age, may enter to their lands, after they have payed their releive: and all other service vfed and wont, to their overlord. *lib. 2. c. 40. c. 71.*

Aires being Minours, are in the warde of their overlord, vntill they be of perfite age. *lib. 2. c. 41.*

Ane heire female is in the warde of hir overlord, vntill sche be married with his consent. *lib. 2. c. 48. 3.*

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Gif the overlord will not restore the heretage : the heire be the breive of mortancestrie, sall recover his damage and skaith, as be the breive of Novell dissaikin. *stat. 2. Rob. 1. c. 6.*

The heire may seik help fra his men, to pay his releiue. *lib. 2. c. 73. stat. 2. Rob. 1. c. 18.*

Ane heire being minour, or majour, sould make homage to his overlord : bot ane heire female, makes onlie fidelitie. *lib. 2. c. 60.*

Gif lands are given in name of tocher, the receaver thereof, and thrie heires after him, salbe frie fra all service, and homage : bot the fourt heire sall make service vsed and wont. *lib. 2. c. 57.*

The heire may not intrude him selfe in his heretage : vntill he satisfie the King, or his other overlord. *stat. 2. Rob. 1. c. 7.*

The heire quha seikes his prediceffours heretage, be ane breive of mortancestrie ; sould finde securitie to persew his clame. *lib. 3. c. 28.*

The heire of ane Soccoman, sould be in the keiping of his kinsmen of the mothers side : gif his heretage descends fra his father. Or in the keiping of his kinsmen of the fathers side, gif his heretage descends fra his mother. *lib. 2. c. 47.*

The heire is not obliffed be his prediceffours compromit : except speciall provision be made. *lib. 3. c. 10. 4.*

Any man may dispon his lands in name of maritage (or tocher) or of almous albeit his heire dissent thereto. *lib. 2. c. 18.*

The heires consent is necessare to the alienation of lands vpon the deid bed. *lib. 2. c. 18. 10.*

Except the father is burdened with debts : and the heire will not relieue him. *stat. Wilh. c. 13.*

The heire is obliffed to warant the alienation of his prediceffour. *lib. 2. c. 24.*

They sould pay the debts left be their prediceffours in their testaments. *lib. 2. c. 35.*

Quhilk they sould doe, of their awin proper gudes, gif the gudes of the defunct is not sufficient to pay the saidis debts. *lib. 2. c. 39.*

The heire may not impugne his fathers alienation : albeit the father was possessour all his lifetime of the thing aneid. *leg. Burg. c. 12.*

The heire of the wife, may revoke the alienation of hir heretage, made be the husband without her consent. *Quon. Attach c. 20. mod. sen. cur. c. 44.*

Gif ane soyt sould be given for land perteining to sundrie heires ; he to quhom the principall and cheif part of the heretage pertienes, sall make that soyt in his Lords court. *stat. 2. Rob. 1. c. 3.*

After the death of ane manslayer, his heire recovers his lands. *Quon. Attach. c. 18. mod. sen. cur. c. 43. c. 66. lib. 4. c. 10.*

The heire of ane traytour agains his overlord, forsaits onlie the lands halden be him of that overlord. *Quon. Attach. c. 19. mod. sen. cur. c. 43.*

God onlie, and not man, makes heires. *lib. 2. c. 20. 4.*

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Ane burges heire: age of heires. *vid. age. vid. ward. vid. homage, vid. releue, vid. warrant.*

Aith. perfonnes chosen to pas vpon ane Affise, fould sweir. *lib. 1. c. 12. 12. leg. burg. c. 127. 4.*

The defender in singular battell fould sweir, that his quarrell is just. *Quon. Attach. c. 31.*

Arbitrie may be confirmed be ane aith. *lib. 2. c. 8. 2.*

Ecclesiasticall Judge, may cognosse vpon civill actions, be reason of ane aith: because ane aith is ane part of the worschipping of God. *lib. 2. c. 59. lib. 3. c. 7.*

Ane man may be proven to be ane pledge, be the aith of the creditour, and witnes. *lib. 3. c. 1. 22.*

He quha saw the theif rinnand away with the thing thifteouslie stollin, fould sweir that he is not art nor part of the thift. *lib. 4. c. 14.*

Ane man makand cession of his gudes, and becumand bairman, fould make ane aith. *Quon. Attach. c. 7. 3. Stat. wilh. c. 17.*

Soytours of court, may sweir that they can not decide nor determe causes, be reason of their difficultie. *Quon. Attach. c. 14. mod. ten. cur. c. 34.*

He quha haymhalds and repeates his cattell, fould sweir that they pertaine to him. *Quon. Attach. c. 10. 6. mod. ten. cur. c. 28.*

Gif the theif breakes the prison, and escapes: the maister of the prison fould sweir that he is innocent. *Stat. David. 2. c. 1. 6.*

Dittay fould be taken vp be gude and sworne men. *Stat. Alex. c. 2.*

Ane malefactour fleand to the kirk as sanctuarie, being penitent, fould sweir to abstaine in time comming. *Stat. Alex. c. 6. 2.*

The creditour be his aith, proues his debt. *Stat. David. 2. c. 6. 3.*

Be the aith of the accuser, thift may be proven to be committed to pure folk, and weak perfonnes. *Stat. David. 2. c. 13.*

The aith of the estates in parliament anent the observation of the lawes. *Stat. Robert. 2. c. 17.*

Alienation of lands may not be made vpon the dead bed without consent of the heire. *lib. 2. c. 18. Stat. wilh. c. 13.*

Ane naturall fuill may not analie his lands. *lib. 2. c. 46.*

Kirklands may not be analeid, without the kings confirmation. *lib. 2. c. 23.*

Nor the vassall without consent of his overlord. *stat. wilh. c. 31.*

The husband may not analie his wifes heretage, without hir consent. *Quon. Attach. c. 20.*

Nor zit after hir deceis, without consent of hir heire. *lib. 2. 29. 5.*

It is not lesome to analie any gudes, rents, or possessions to be transported furth of the Realme, without the Kings consent. *stat. 1. Rob. 1. c. 24.*

It is not lesome to analie lands to ane religious house: and take or receaue them back againe, to be halden of the samine house. *stat. 2. Rob. 1. c. 1.*

The overlord may not analie the superioritie, without consent of the vassall. *stat. Rob. 3. c. 4.*

Lands halden be Knichts service, aneid without consent of the overlord, may be recognosed be the overlord. *stat. Rob. 3. c. 19.*

Gif ane part of the land is aneid: ane part of the service sould be made to the overlord. *stat. 2. Rob. 1. c. 25. 4. stat. Alex. c. 26.*

It is lesome to any man to analie his lands, in his liege powstie, and re- teine the possession thereof all his dayes. *leg. Burg. c. 12.*

Ilk burges may frielie analie his lands. *leg. Burg. c. 23.*

Bot the lands sould be offered to the narrest heires. *leg. burg. c. 45. c. 115. c. 127. c. 95.* Without fraud or gyle. *leg. Burg. c. 96.*

Lands set in fewferme, may not be fauld, except they be offered to the first setter. *leg. Burg. c. 100.*

The Baillies of Burrowes in quhais hands lands are resigned, sould giue them to him, in quhais favours the resignation is made. *leg. burg. c. 117.*

Ane burges may analie his moueable gudes. *leg. burg. c. 125.*

Lands aneid, sould not be halden of the analier, nor of his heires: bot of him quha is overlord to the analier. *stat. 2. Rob. 1. c. 25.*

Almous. Lands may be given in name of Almous agains the will of the heire. *lib. 2. c. 18.*

Kirk lands, are ane part of the kings Almous. *lib. 2. c. 23.*

The wife may give almous moderatly, without consent of hir husband. *Quon. Attach. c. 21.*

The Kings officers, or purweours, may take na thing to the Kings vse, within lands given in name of almous: gif that thing may be gotten in ane other place. *stat. Alex. c. 20.*

Lands given, or aneid to the kirk, or to ane religious house, in name of Almous, may not be aneid, without consent of the first giver, or his heires. *stat. 2. Rob. 1. c. 15.*

Lands given in name of Almous, may be repeted by the giver, or his heires, gif the Almous is abstracted fra the vse, for the quhilk it was given. *stat. 2. Rob. 1. c. 17.*

Amerciament, or vnlaw, is divers, in divers courts. *leg. Malc. 2. c. 8.*

The defender may be vnlawed in the first court, for his defalt or absence. *med. ten. cur. c. 7.*

Gif the defender quha hes made thrie defaults in thrie courts, compeirs not in the fourt, to saue and defend his defaults: he sall pay thrie vn- lawes for his thrie defaults. *Quon. Attach. c. 4. 6. mod. ten. cur. c. 10.*

Bot gif he compeir in the fourt court, and saues all his defaults: he sould not be vnlawed. *Quon. Attach. c. 5.*

He quha accuses ane of thist, and proues not: sould be amerciat. *Quon. Attach. c. 12. 4.*

Gif ane dome pronounced in ane baron court, is falsified before the Schiref: ane vnlaw onlie is taken vp. Bot gif ane dome pronounced in the Schiref court, is falsified before the Justice: ilk soytour before the Schiref, salbe amerciat be the Justice, in ten pounds. *Quon. Attach. c. 13.*

Ane quha proponis essonies, and warands them not, sould be vnla- wed:

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wed: and he quha gives not pledges for his effonzies. *Quon. Attach. c. 33.*

Ane amerciament of ane fals dome againe said in the Justitiars court, is ten pounds. *Quon. Attach. c. 35. 4.*

Likewise the samine is in the breive of Nouvelle diffaisine. *Quon. Attach. c. 53.*

Ane soytour sould not be vnlawed for ignorance. *Quon. Attach. c. 36.*

Ane vnlaw sould not be taken, quhen the escheit is taken. *Quon. Attach. c. 48. 8.*

In the breive of distres for debt, the debt sould be asked, without ane vnlaw of either of the parties. *Quon. Attach. c. 49.*

The persewar, and the defender may be vnlawed be the Judge, gif they be beath absent at the terme of probation. *stat. 1. Rob. 1. c. 30. 3. mod. te. 1. cur. c. 23.*

He is vnlawed, quha callis not his warant at the time, and place assignned to him be the Judge. *mod. ten. cur. c. 29.*

He quha halds not his court in the place, to the quhilk there is not ane easie and sure accesse, sould be vnlawed in ten pounds. *stat. 1. Rob. 1. c. 10.*

The amerciament of the court, is payed be the pledges of them quha are amerciat. *stat. Rob. 3. c. 29.*

For ane trespass, there sould be bot ane vnlaw. *leg. Burg. 5. 113.*

Vnlawes within Burgh, some pertienes to the king: and some to the Burgeffis. *stat. Gild. c. 4.*

Vnlawes in the Chalmerlan aire, sould not be modified without the Kings consent. *chalm. aire. c. 32.*

Amicabill composition is ane agreeance be arbitrie, conforme to ane paction agreid betwixt the parteis. *lib. 1. c. 27.* Be the quhilk doubts and questions in pleyes are dissolved. *lib. 2. c. 410.*

Ane Judge may be ane amicabill compositor, otherwaies called ane Arbitratour. *lib. 2. c. 4.*

May cognosse anent causes matrimoniall, and criminall. *lib. 2. c. 6.*

Annuell Rents consistand in siluer, or in other things, are raikned and esteemed to be immoueable gudes. *lib. 2. c. 2.*

2. And therefore homage sould be done for them, to the overlord. *lib. 2. c. 65.*

Annuell rent sould be payed be the tenant to the Lord, conforme to the tenour of his chartour. *leg. Burg. c. 136. 12.*

The forme of the proces to recover the annuell rent, for non payment thereof. *leg. Burg. c. 136.*

Appeill it is lesome to any mar, fra the inferiour court, to the superiour, and last of all to the parliament. *mod. ten. cur. c. 16.*

In Ecclesiasticall causes appellation is admitted within fourtie dayes, to the conservatour of the Clergie, and fra him, to the generall assemblee of the Clergie. *stat. Rob. 3. c. 6.*

Arbitratour. vid. *Amicabill* composition.

Arbitrie, is reduced and brocht to the ordour of judgement. *lib. 2. c. 1.*

Arbitrie is ane lauchfull deid of persones, in ane civill cause, contendand

dand in ane voluntare judgement. *lib. 2. c. 2.*

Ane arbiter sould be ane man of gude fame, and sic as is not forbidden be the law. *lib. 2. c. 3. 3.*

Be the Law are forbidden, ane bondman, ane woman, ane furious man, ane dombe man, ane deife man, ane minour within twentie five zeares ane Judge ordinaire. *lib. 2. c. 4.*

Ane arbiter may be compelled to pronounce his decret. *lib. 2. c. 4. 7.*

Arbiters sould be of ane od, or inequall number. *lib. 2. c. 5.*

The decret of the maist part of the arbiters, is sufficient. *lib. 2. c. 5.*

The arbiters in equall number, and not aggreand, may be compelled be the Judge to elect and chuse, and thrid person. *lib. 2. 5. 5.*

Arbiters may judge vpon causes pecuniall, temporall, and spirituall: bot not vpon causes concerning mariage, the libertie or estate of man, nor criminall. *lib. 2. c. 5.*

The arbiters may pronounce their decret in the absence of the partie or parteis. *lib. 2. c. 6. 4.*

In the place convenient betwixt the parties: or in the place of the compromit. *lib. 2. c. 7.*

Arbiters sould obserue the lawes. And may not decret vpon ane halie day: except in thrie cases. *lib. 2. c. 7. 4. 5.*

The parteis sould obey and fulfill their decret: quhilk sould contene ane penaltie. *lib. 2. c. 8.*

Ane arbiter may not punish the partie disobedient to his decret: because he hes na jurisdiction. *lib. 2. c. 9.*

All the Arbiters sould give decret conjunctlie. *lib. 2. c. 9. 2.*

Arbitrie ends and expires, be the death of the parties, or of the arbiters, or be the outrinning of the time, or day, contenit in the compromit, or be paction and consent of parties. *lib. 2. c. 10.*

He quha payes the penaltie contenit in the decret, sould not be compelled to pay the thing quhilk is decernit. *lib. 2. c. 10. Vid. compromit.*

Airles given be the buyer, and receaved be the seller, makes the contract of buying and selling, perfite, and compleit. *lib. 3. c. 10. stat. Gild. c. 22. 4.*

Armes and ordinance thereanent for weirfare. *vid. weirfare.*

Art and part of theift. *vid. theift.*

Affise sould be chosen, to trie the trewth, gif the defender hes na just exception to stay the samine. *lib. 1. c. 12. lib. 2. c. 29. 13.*

The *Affise* in the breive of richt, is of twelue sworn men. *lib. 1. c. 12.*

The forme of the aith of the *Affisours*. *lib. 1. c. 12. leg. Burg. c. 127.*

In ane *Affise* vpon the breive of richt, the ignorant persones are removed, ay and quhile twelue be found aggreand together. *lib. 1. c. 12. 9. 10.*

Ane cause or action decided be ane *Affise*, is irreducible. *lib. 1. c. 13.*

Gif the persones of ane *Affise* are convict of perjurie be ane great *Affise*, or confesses the samine, are punished. *lib. 1. c. 14.*

The question of majoritie or minoritie of age, is decided be ane *Affise*. *lib. 2. c. 43. c. 32. 19.*

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- Be ane Assise, it is tried quhither ane man deceissed being ane vsurar, or not. *lib. 2. c. 54.*
- And the question of service betwixt the overlord and his vassall. *lib. 1. c. 12 lib. 2. c. 63. 14.*
- And the bounds, methis, and martchis of lands, amongs neighbours. *lib. 2. c. 74. 24.*
- And the fraudfull conceling of ane huird, or thresour. *lib. 4. c. 4.*
- And theft, and reif. *Quon. Attach. c. 12. c. 41.*
- Be ane Assise the cuntry sould be clenged thrise in the zeare of malefactours. *Quon. Attach. c. 41.*
- And the question of libertie, quhither ane man is frie, or bondman. *Quon. Attach. c. 56. 5. lib. 2. c. 11. 10.*
- And the tenour or contents of ane tynt chartour or writ. *Quon. Attach. c. 55. 6.*
- Be ane Assise the skaith, and damage in the action of theft, or roborie may be taxat and liquidat. *Quon. Attach. c. 68.*
- And likewayes of all other crimes. *Quon. Attach. c. 69.*
- Deforcement of the kings officiars, is tryed be ane Assise. *stat. wilh. c. 4. 6.*
- And the essonzie of infirmitie and sicknes. *stat. 1. Rob. 1. c. 6.*
- And the maner of halding of lands, quhereof the chartour is tynt. *Rob. 3. c. 36. 3.*
- The buying and selling of lands. *leg. Burg. c. 127.*
- And recent deforcement within burgh. *leg. Burg. 135.*
- Be ane Assise all crimes, and malefactours sould be tryed. *stat. Alex. c. 3.*
- They sould be friehalders, quha passes vpon ane Assise, of life, of lim, of lands. *stat. Alex. c. 3. 7.*
- Quha willinglie consents to passe to ane Assise, hes na essonzie or excuse admitted to him. *Quon. Attach. 33. 4.*
- The Assisours sould haue knowledge of the mater, be their awin sight, or hearing, or be the words and information of their fathers. *lib. 1. c. 12. 13. leg. Burg. c. 27.*
- Ane mater decided be ane Assise, sould not pas to be decided be ane other Assise. *Quon. Attach. c. 82.*
- Lands tynt be ane Assise, be reason of ane default of the awner, fall never be recovered. *Quon. Attach. c. 96.*
- Be ane Assise, it may be tryed quhither lands are wadset, or irredemabill. *lib. 3. c. 6. 4.*
- And quhither ane man died vest, and saised in lands, as of fie, or be reason of warde. *lib. 3. c. 32. 5.*
- The breives of mortancestrie, and Novell dissaisin sould be determed be ane Assise. *stat. David. 2. c. 19.*
- The Assise of mortancestrie sould be of twelue leill men neighbours, in presence of the persewer and defender, at the least lawfullie summoned. *lib. 3. c. 28. 12.*
- The defender may vse essonzies, quhither he compeir or not: the names

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names of the Assisours are abreviat be the Clerk. *lib. 3. c. 18. 8. 9. 10.*

Git the Assise adjudges to any man or his antecessour, the richt of presentation of ane kirk, thereby the richt of patronage is vnderstand to pertain to him. *lib. 3. c. 33. 4.*

The defender hes in his election to be tried be ane Assise, or be singular battell. *lib. 4. c. 1. 13.*

A tachment is ane band of the Law, be the quhilk the defender agais his will, is compelled to answer lawfullie, to the partie complein and vpon him. It sould be done be the autoritie of ane Judge. And either in gudes or bodelie. *Quon. Attach. c. 1. mod. ten. cur. c. 1.*

The possessour of ane thing, quhereof the warrandice is in question: sall finde caution to enter that thing in judgement: or else his bodie sould be attached. *lib. 1. c. 15. 6.*

The cause of the attachment sould be declared in the attachment. *Quon. Attach. c. 64. mod. ten. cur. c. 4.*

They quha makes the attachment, sould be susteined vpon the gudes of him quha is attached.

The sergent being negligent, or defectiue in making the attachment, payes the damage to the partie. *mod. ten. cur. c. 15.*

Na man sould be attached (*to the Iustitiars aire*) except he be indited for felonie. *stat. A' ex. c. 2. 5.*

In time of publik faire, na man sould be attached, bot for great crimes. *lg. Burg. c. 91.*

Gif ane man dwelland within Burgh, is attached within Burgh: he sould answer within Burgh. *c. 116. vid. pledge. vid. Lord. vassall. vid. sonne. vid. dochter.*

B.



A I R M A N (otherwaies called Dyvour, because he does his devoure to his creditours) is he quha makes cession of his gudes and geir to his creditours, and makes them assignais theireto in rem suam. *Quon. Attach. c. 7. 3.*

He sould sweir, that he hes not in gudes & geir, aboue the valour of five shillings, and ane plack: and that he sall gif to the payment of his debts ilk thrid pennie, quhilk he sall happen to conques. *stat. Wilh. c. 17.*

Barlie or steward to any man, may be his procuratour in his causes, and pleyes. *lib. 3. c. 15. 7. vid. Iudge.*

Barones in their courts, takes the like amerciament as the Schiref in his court: and vses the samine lawes, and forme of proces, as the Schiref. *Mal. 2. c. 8. 6.*

The pley of baroneis pertaines to the Schiref. *lib. 1. c. 3.*

To the baron pertaines the escheite of him quha is condemned of thift. *Mal. 2. c. 9.*

The barons may seik counsaill, and advise of the Kings court, anent difficulties arisand in their court. *lib. 3. c. 23. c. 6.*

Barones sould thrise in the zeare, clenge and purge their lands fra malefactours.

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lefactours. *Quon. Attach. c. 91. mod. sen. cur. c. 71.*

They may hald court in criminall causes, and for escheits. *Quon. Attach. c. 43.*

They may put in prison theifs taken within their awin baronies. *Malc. 2. c. 9.*

Barones haueand power in criminall causes, sould hald their courts, as the Justitiar does. *stat. Rob. 3. c. 33.*

Barones may not make concord anent theift or slaughter, without the kings licence. *Quon. Attach. c. 77.*

They may not be compelled to change their overlord, albeit the king analie their superiorie without their consent. *stat. Rob. 3. c. 4.*

They may not hald courts of singular battell, fire and water; bot gif the Schiref be present. *stat. Wilh. c. 16.*

Because in all baron courts, the Schiref, or his depute sould be present. *stat. Alex. c. 14.*

They may not intromet with the escheit of any man, convict of any of the foure crimes perteining to the crowne. *Malc. 2. c. 13.* Because the pleyes of the crowne pertienes not to the baron court. *vid. Pleyes of the crowne.*

The Justice delivers theifes, and manslaughterers to barones, to be punished. *stat. Alex. c. 2. 6.*

Gif barones, or their prediceffours hes given or analeid lands to the kirk, or to ane religious house, in name of Almous: and the lands thereafter are analeid be the kirk contrare the tenour of the first disposition: or gif the almous is substracted be the space of twa zeares: It is lesome to the baron quha gaue the lands, or his heires to repeate, and take back agane the lands. *stat. 2. Rob. 1. c. 1. 5.*

Barones sould punish malefactours apprehended in their forests. *leg. Forest. c. 2.*

Barones in Schiref courts, sould haue the seales to seale retouris, in the breive of inqueist. *stat. Rob. 3. c. 1. 5.*

Barones and other friehalders payes na custome within Burgh, for sic things as concernes meat, and drink. *leg. Burg. 143.*

Barones may not sit, or cognosse vpon theift, except it be manifest, that is, except the theift be taken with the fange, and hand haveand, and back bearand. *Quon. Attach. c. 100.*

Baikster may be punished within Burgh be the pillorie, or Jogis *leg. burg. c. 21.*

He quha hes ane proper Oven (*furnum*) of his awin, sould haue in it ane Maister, to quhom ane pennie salbe given for the Oven. Twa servants, to quhom twa pennies salbe given. And ane knave, to quhom salbe given ane farding. *leg. Burg. c. 66.*

The price, and weicht of the bread, alters conforme to the price of the quheat.

Ane Baikster sould make gude bread: and sould sell the samine publick lie in the window of his buith, or in the market. *leg. burg. c. 67.* To allmen, alsweill strangers, as others. *leg. Burg. c. 22.*

Bot speciallie to them, quha presentlie payes the price. *leg. Burg. c. 130.*

Baileffers, may be divers wayes challenged in the Chalmerlane aire. *Chalm. air. c. 9.*

Provest, Baillies, Sergents, sould not baik bread to be fauld. *leg. burg. c. 65.*

BASTARD may not succeide as heire to anie man. *lib. 2. c. 50.*

And fra the exception of Bastardie objected agains him quha seikes the heretage of his prediceffour, as heire to him: staves the breive of mortancestrie. *lib. 3. c. 29. 5.*

And quhen sic ane exception, is objected in ane temporall court: the cause sould cease, and sleip, vntill it be decided in the Ecclesiasticall court, quhither the persewer is lauchfull gotten and borne: or is bastard. *lib. 2. c. 50. 2.*

Ane bastard may not haue ane heire, except lauchfullie gotten of his awin bodie with ane lawfull wife. *lib. 2. c. 52.*

The King succeides to ane bastard, be the richt of his crowne. *ibidem.*

He is bastard, quha is borne before the mariage betwixt his father and his mother. *lib. 2. c. 51.*

BLA and *bladie*, quhen baith the parties suffers sic ane injurie, he is first hard, quha first complaines. *leg. burg. c. 87.*

BLUDE, or *Bludewit*, ane price or paine thereof. *lib. 34. c. 9. stat. Wilh. c. 20.*

Bludewit hes na place within burgh. *leg. burg. c. 19.*

BORROWING and *lenning* (*mutuum*) consists in number, weicht, and measure. As things quhilkis are numbered, weyed, and measured. *lib. 3. c. 1. 4.*

Borrowing and lenning sometime is, be finding of pledges and cautioners. *lib. 3. c. 1. 6. 7.*

Or be giving and receaving of ane wad. *lib. 3. c. 2.*

Or be ane faithfull promise. *lib. 3. c. 7. 1.*

Or be contract, and writ. *lib. 3. c. 8.*

Gif ane man repeates silver lent be him to anie man, he sould proue, that he lent it to him. *stat. 2. Rob. 1. c. 23.*

BREIVE of bondage, or servitude. *vid. servants.*

Breive of recognition. *vid. recognition.*

Breive of Inqueist, or mortancestrie. *vid. mortancestrie.*

Breive of Novell dissaifine. *vid. Novell dissaifine.*

Breive of purpresture, or purprision. *vid. purpresture.*

Breive of distresse, or of poynding. *vid. distresse. vid. poynding.*

Breive of breaking of the Kings peace, or protection. *vid. protection.*

Breive of warant. *vid. warant.*

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Breive of perambulation. *vid. perambulation.*

Breive anent keeping of promise, or conventions. *vid. p^{ic}tion.*

Breive of richt without burgh, is given to him quha complaines, that his lands are halden agains him, or fra him violentlie, and agains the law. Anent the proces thereof, read the sext chaptour of the first buke, vntill the 28. chaptour of the samine buke.

The breive of richt, may be continewed fra fiftene dayes, to fiftene dayes, all the dayes of the zeare. *Quon. Attach. c. 9. mod. sen. cur. c. 16.*

Lands given be the King to any man, be certaine methis, and marches, may be pleyed be the breive of richt. *Quon. Attach. c. 78.*

BLOKERIS, or *broccaris*, sould be chosen be the communitie of the burgh. *stat. gild. c. 27.*

BROTHER, gif the father gives to his secund sonne ane portion of land: and the sonne decease before his father, without heires lawfullie gotten of his awin bodie: the eldest sonne succeides to him, and excludes his father. *lib. 2. c. 22. 11.*

Gif the eldest brother gives to his secund brother, ane portion of land: and the secund brother decease without heires gotting of his awin bodie, the eldest brother succeides not to him (*albeit be the practice, it is otherwaies*) *lib. 2. c. 22.*

The brother succeides to his brother, not haueand lawfull barnes of his awin bodie. *lib. 2. c. 34.*

Gif there be three brether germane: and the secund, or midle brother decease, without heires of his bodie: his lands perteines to his eldest brother. *Quon. Attach. c. 85.*

Bot his moueable heireship perteines to his zoungest brother, quha is his generall heire: albeit the eldest is particular successour to his lands and conqueste.

Gif there be three brether, and the zoungest of them all, decease without heires of his bodie: his lands perteines to his immediat elder brother, and not to his eldest brother. *stat. Rob. 3. c. 3.*

BURDINGSECK, be the Law of burdingseck, na man sould be hangged for sa meikill of stollen meat, as he may beare in ane seck vpon his back: as for ane scheepe or ane calfe. *lib. 4. c. 16.*

BROWSTERS of Aill, may be punished be the provest and baillies, *leg. burg. c. 21.*

Speciallie gif they brew evill Aill: And they sould sett furth ane signe, that the Aill may be taisted. *leg. burg. c. 69.*

They sould sell Aill commonlie to all men, alsweill strangers as others. *leg. burg. c. 72.*

Bot they may not be compelled to sell Aill, to them quha payes not for it. *leg. burg. c. 130.*

Ane certaine price is constitut and set down. *stat. gild. c. 26.*

Provest, Baillies, and Sergents sould not brew aill, to sell it agane within burgh. *leg. burg. c. 65.*

He, or she quha brewes aill, sould giue ane certaine dewtie, to the provest of the burgh. *leg. burg. c. 39.*

Ane browster may not buy in the market at ane time, mair nor ane chalder of aittis to be browin. *stat. Gild. c. 39.*

Browsters may be accused before the Chalmerlane. *Chalm. air. c. 10.*

And sicklike maltmakers. *Chalm. air. c. 26.*

Burgh's principall, are foure vpon the southside of the water of Forth, Edinburgh, Stirling, Bervik, and Roxburgh. *Cur. Quat. burg. c. 1.*

Or Edinburgh, Stirling, Lanark, and Lychcow. *mod. ten. cur. c. 17. cur. quat. burg. c. 2.*

Ane burgage halden of the King, imports not the wairde nor mariage of the burges heire, nor his lands. *lib. 2. c. 44. 4.*

Because he and his moueable gudes sould be in the tutorie of his kinfmen vpon the motherside, and his heretage in the custodie of his kinfmen vpon the fatherside. *leg. burg. c. 106.*

Ane vnlaw in the borrow court, sould not exceid aucht shillings. *Malc 2. 8. 3. leg. burg. c. 42.*

Ilk burges sould pay zearelie to the King five pennies, for ilk Ruid of land. *leg. Burg. c. 1.* Alsweill of waste land, as inhabit. *leg. Burg. c. 29.*

The liberties of burghis sould be keiped. *stat. David. 2. c. 32.*

Na man may be burges, except he haue ane Ruid of land. *leg. Burg. c. 53.*

Or some land distrenzeabill, and inhabit. *leg. burg. c. 29.*

Ane landward man being burges, may defend him self be battell agains ane burges within burgh: bot the burges sould not be compelled to fecht. *leg. burg. c. 13.*

Ane burges may decline and refuse to ficht agains ane landward man, or stranger. *leg. burg. c. 14.*

The Kings burges may compell ane barones burges, or ane burges of ane kirkman, to ficht: bothe may not be compelled be them. *leg. burg. c. 15.*

Victuall brocht in be ship to ane burgh, may not be bocht be them, quha dwells without burgh. *stat. Gild. c. 46.*

Of buying and selling within burgh. *v. d. buying, and selling.*

Herrezelde sould not be taken within burgh. *leg. burg. c. 19.*

Na man may make claith, or cut claith, bot ane burges. *leg. burg. c. 22.*

The curtesie of Scotland hes place within burgh. *leg. burg. c. 44.*

Burgeesses onlie hes cut and cavill: And nane others, except in time of publick Faires. *leg. Burg. c. 59. stat. Gild. c. 20.*

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In time of publick Faires, na man sould be apprehended, attached, or poynded bot in certaine cases. *leg. burg. c. 91 c. 93. c. 3.*

Twa men or mae, may not be burgeses of ane burgage. *leg. burg. c. 138.*

The Kings burgeses hes power to buy and sell throuhout the haill Realme. *leg. burg. c. 139.*

Ane vplands man sould mak answer to ane burges craue and his awin geir fra him within burgh. *leg. burg. c. 5.*

Pleyes and actions are determind within burgh. *leg. burg. c. 6.*

Ane burges sould be judged within his awin burgh, be his peires. *leg. burg. c. 7.*

Suppose it be agains ane husband man. *leg. burg. c. 13.* Or agains ane vplands man. *leg. burg. c. 14.* or agains the keiper of the Kings castell. *leg. burg. c. 49. Quon. Att. ch. c. 67.*

Replegiation hes na place in the courts of Burghis. *stat. 1 Rob. 1. c. 16.*

Bot ane burges being summoned to the Kings court, sould compeir, and be repledged fra that court, to his awin court. *leg. burg. c. 61.*

Ane burges acquires the propertie of lands, quhilke he possesses peaceablie within burgh, be the space of ane zeire and day. *leg. burg. c. 9.*

Merchants sould buy their merchandises fra burgeses. *leg. burg. c. 18.*

Burgeses onlie may haue ane Oven. *leg. burg. c. 20.*

Burgeses onlie makes and cuts claith: and buyes woll to be litted. *leg. burg. c. 22.*

Burgeses may frielic sel their lands, & pas quher they pleise. *vid. analie.*

Burgeses may poynd ane, dwell and alandward. *vid. poynd ng.*

Ane burges may giue his conquest lands as he please: Bot he may not sell his heretage, bot be necessitie, and sould offer the same to his narrest heire. *vid. Analie.*

Burgeses sould not be spuilzeid be the keepers of the kings castell, of their hennes, geese, swine. *leg. burg. c. 50.*

They sould haue weichts, and measures in their houses. *leg. burg. c. 52.*

Ane burges man may not be compelled to lend to the keiper of the Kings castell, aboue the summe of fourtie shillings. *leg. burg. c. 60.*

Ane burges dwell and allandward, hes not libertie, bot in that burgh onlie, in the quhilk he was made burges. *leg. burg. c. 108.*

He quha dwells within burgh, and is attached within burgh, sould answer there. *leg. burg. c. 116.*

Gif ane burges commits ane trespas within ane baronie, and without burgh: he sould be judged be the law of merchants. *leg. burg. c. 120.*

Gif ane burges is rebellious, he may be put furth of the burgh, and his houte castin downe. *leg. burg. c. 122.*

Ane burges heire sould haue his heireship. *leg. burg. c. 125.*

And gif he be not forisfamiliat, he succedeis equallie with the rest of the bairins in the moueable gudes. *leg. Burg. c. 124.*

The vnlaw of breid and aill, perteines to the prowest. *leg. Burg. c. 21.*

The prowest hes ane zearelie dewtie fra the browsters. *leg. Burg. c. 39.*

And ilk market day Cremars, and stranger merchands sould satisfie him. *leg. Burg. c. 40.*

The prowest may not compell any man to sweir, except he be accused be some man. *leg. Burg. c. 41.*

In buying and selling of land, the buyer gives ane pennie to the prowest, and the seller ane other. *leg. Burg. c. 56.*

The prowest may proue na thing be witnes within burgh, agains any man. *leg. Burg. c. 82.*

The prowest, with consent of the communitie, may chuse liverais within burgh. *leg. burg. c. 102.*

The prowest and baillies may cognosse vpon actions of debt and distresses. *l. b. 1. c. 5. 5.* And vpon the breive of richt. *Quon. Attach. c. 57.*

They sould be chosen at Michaelmes, be the common counsaill. *leg. burg. c. 77.*

Prowest, baillies, nor sergents, may not bake breid, nor brew aill to sell agane. *leg. burg. c. 65.*

He quha injures the prowest, sould mak ane mends. *leg. burg. c. 104.*

The baillies of burghis may be accused before the chalmerlan, *Chalm. air. c. 4.*

The Chalmerlan is onlie Judge to them. *Chalm. air. c. 37. c. 38.*

The sergents sould be chosen be the communitie of the burgh, and sould sweir to be faithfull. *leg. burg. c. 76.*

Being convict of falsset, they are punished be the vnlaw of the burgh, tyself of their office and infamie. *leg. burg. c. 75.*

They may be accused before the Chalmerlan. *Chalm. air. c. 5.*

Na thing may be proven at their instance within burgh be witnes, against any man. *leg. burg. c. 82.*

There is thrie head courts within burgh. *leg. burg. c. 48.*

The courts may ryn fra 15. dayes, to 15. dayes: & na langer. *leg. burg. c. 51.*

All burgeses suld com to them at ane certain time of day. *leg. burg. c. 81.*

Ane pley betwixt ane burges and ane stranger merchant, sould be determined before the thrid flowing and ebbing of the sea. *leg. burg. c. 8.*

Na man may be pledge for ane burges, bot onlie ane burges. *leg. burg. c. 35. c. 129.*

Gif ane burges is taken for debt, or ane trespass: he sould be repledged be his comburgesses. *leg. burg. c. 55.*

Ane burges being challenged for ane crime, and not haue and ane pledge: sould be delivered to the kings baillie, and imprisoned. *leg. burg. c. 62. c. 80.*

Ane pledge sould be given for things found in Faires, alledged stollin, reif, or tynt. *leg. burg. c. 92.*

He quha is pledge for ane burges after his death, may take his lands, and sell them to the creditours lands. *leg. burg. c. 94.* In the samine manner, as the debtour may sell the creditours lands. *leg. burg. c. 95.*

Of ane debt, there is bot ane borrowgange: for gif there be many pledges

The Table.

pledges be payment of ane, the rest are made frie. *leg. Burg. c. 113.*
 He quha is attached within Burgh, and hes not ane pledge, may be imprisoned. *leg. Burg. c. 116.*

Ane burges may poynd ane vplands man: except in the time of the Faire, or in the Kings hoist. *leg. Burg. c. 3.* Or gif the vplands man, be sittand vpon his horse: or hes bene poyndit the samine day: or did come to enter his poynd. *leg. Burg. c. 34.* Or gif his maister is in the Kings hoist: or in the keiping of the Kings castell: or at the Schiref court: Or gif he come to the burgh, to bring his Maisters meat. *leg. Burg. c. 36.*

Vplands men may repledge their poynds. *leg. Burg. c. 37.*

They sould not be poynded, quha brings fish or fewell to be sauld, *leg. Burg. c. 38.*

Ane burges may not poynd ane other burges. *leg. Burg. c. 47.*

Ane burges may poynd his farmer for his dewtie, without licence of the prowett. *leg. Burg. c. 57.*

Ane burges may poynd ane cremar. *leg. Burg. c. 58.*

Bothe may not poynd ane burges of ane other burgh, except in certain cases. *leg. Burg. c. 105.*

Breusters, Baxsters, Fleshers, Stallangers, or Cremars, Millers, Fishers, Forestallers, Regraters, Sutours, Kemesters, Bloccers. Of these and other Craftismen, read and see ilk ane of them, in their awin place. And *vid. stat. Gild.*

Anent the purgation of ane burges. *vid. purgation.*

Buying and Selling, is ane mutuall contract, in the quhilk the price sould be given to the feller: and the thing quhilk is bocht, to the buyer. And the contract is perfited and compleit, quhen the price is aggreid: or the thing bocht and sauld, is delivered: or the arlis are given, and receaved. *lib. 3. c. 10. 2. 3. 4.*

Gif the thing is vitious the time of the buying and selling: the feller fall receave the samine againe: and restore the price, gif he receaved any part thereof, or the haill. *lib. 3. c. 10. 8.*

The buyer of ane thing, quhilk is alledged to be stollin, sould excuse him of theft: or sould call his warant. *lib. 3. c. 12.*

He quha sells ane thing burdened with service, sould warant the samine. *lib. 3. c. 26. 8.*

In buying and selling, measures and weichts sould be equall. *stat. David. 2. c. 14.*

All the Kings lieges may buy victuall, and carie it quhere they please. *stat. Rob. 3. c. 8.*

Na buying nor selling, may be without ane pledge. *lib. 1. c. 18. leg. Burg. c. 128.*

The perill of the thing bocht and sauld, perteines to the possessor. *lib. 3. c. 11.*

All they quha comes to the Kings hoist, sould buy with their awin money, sic things as are necessare to their sustentation. *stat. 1. Rob. 1. c. 5.*

Merchan-

Merchandises brocht in ship, sould be caried to land. *leg. Burg. c. 10.*

Stranger merchants sould buy their merchandises fra burgesse. *leg. Burg. c. 18.*

Burgesse may buy and sell frielic within all the parts of the Realmie. *leg. Burg. c. 139.*

Na man may buy woll to litt, bot onlie ane burges. *leg. burg. c. 22.*

The forme to sell and buy lands within burgh. *leg. Burg. c. 127.*

The seller gives ane pennie: and the buyer ane other to the prowest. *leg. Burg. c. 56.*

Braid, aill, fish, and flesh, sould be sauld commonlie. *leg. Burg. c. 72.*

Merchandises sould be sauld to Merchants. *stat. wilh. c. 36.*

The debtours land, may be sauld be his pledge: in the samine maner, as they may be sauld be his creditour. *leg. Burg. c. 95. c. 96.*

Buyand vitious merchandises, sould be satisfied. *stat. gild. c. 23.*

All merchandises brocht to the burgh, sould be first presented to the market. *stat. gild. c. 29.*

The Gilde brether sould buy in time of the market. *stat. Gild. c. 46.*

The buyer and the seller may pas fra the contract, without any penalte. *lib. 3. c. 10. 5. vid. analie. vid. Arlis.*

C.



CHAKER compt sould be made of lands pertaining to the king, be reason of warde. *lib. 2. c. 45.*

The Schiref sould compeir ilk zeare in the chaker vnder the paine of ten pounds, and tynsell of his office. *stat. Rob. 3. c. 26.*

In the cheker, the Schiref sould be examined anent his office, and the keeping of the lawes. *stat. Rob. 3. c. 24.*

Caption, letters of caption direct be Bishops, or their officialis to temporall Judges, sould be put to execution be them. *stat. Rob. 3. c. 6.*

The forme of the breive of caption of ane debtour. *stat. 2. Rob. 1. c. 20.*

Chalmerlan, his fie is twa hundreth pounds, furth of escheits, vnlawes, and customes of burghis. *Malc. 2. c. 4.*

He may constitut and sett downe the fie of the maister of the cunzie and his warkmen. *stat. David. 2. c. 38.*

He sould cause ane Trone to be made for weying of woll. *stat. David. 2. c. 39.*

Dome given within burgh, may be falsified before the Chalmerlan, and the foure burghis. *mod. ten. cur. c. 17.*

The forme of the Chalmerlan aire. *vid Chalm. aire.*

The Chalmerlan Clerk, sould be constitute be the King. *Chalm. air. c. 28.*

The Chalmerlan sould hald his aire in Somer. *Chalm. air. c. 30.*

He sould make price of victuall, and other things within burgh. *Chalm. air. c. 33.*

His

The Table.

His decreits may not be impugned be any inferiour Judge. *Chalm. air. c. 35.*

They sould be execut be the baillie of the burgh. *Chalm. air. c. 37.*

He is Judge to baillies of burghis anent their offices. *Chalm. air. c. 38.*
Chancellor, for his fie, hes the fie of the great seale: quhilk is particularlie declared in the lawes of king *Malc. 2. c. 2.*

He sould cause debts recovered be marchants in judgement, to be payed to them. *stat. 2. Rob. 1. c. 19.*

And that the retour in the breive of inqueist be made & formed richtlie. *stat. Rob. 3. c. 1.*

And that the witnes quha was present the time of the making of the resignation, be insert in the chartour. *stat. Rob. 3. c. 9.*

Chartour, the trewth thereof may be proven be the seale, or be mae chartours sealed with the samine seale. *lib. 3. c. 8. 7.*

In the action of shawing of chartours, and halden betwixt the overlord, and the vassall, the summons sould be execut at the ground of the lands. *Quon. Attach. c. 3. 4. 5. mod. ten. cur. c. 58.*

Na man is oblißed to schaw his haldin to his overlord, bot anes in his life time. *Quon. Attach. c. 25. mod. ten. cur. c. 58.*

Service sould be done to the overlord, conforme to the tenour of the chartour. *Quon. Attach. c. 45.*

Ilk man infest be chartour, may cognosse vpon criminall causes, according to his chartour. *lib. 1. c. 4.*

The tenour of ane chartour quhilk is tynt, may be proven be ane Affise. *Quon. Attach. c. 55. 6.*

Lands of the Kings propertie being given be him, to any man be ane boundand chartour, the samine may not be taken away fra the receiver thereof be ane perambulation. *Quon. Attach. c. 78.*

Causes pecuniar, temporall, and spirituall, may be determed be arbitrie: bot causes matrimoniall, criminall, and concerning the libertie and estate of men, may not be decided be arbitours. *lib. 2. c. 6.*

The cause of libertie, is quhen ane man wald draw ane other fra libertie to servitude: or fra servitude to libertie *lib. 2. c. 11.*

Causes and actions may be advocat fra ane inferiour court, to ane superiour court *lib. 2. c. 24. vid. advocat.*

Causes are civill, as of debts, and of other things moueable and im-moueable, and are persewed be wrang and vnlaw. Or criminall of life and limme: quhilkis are persewed by sickerborgh. *mod. ten. cur. c. 75. vid. pleyes. vid. crimes.*

Cautiomer, borgh, or sovertie, in latine *fidejussor. vid. p'edge.*

Clame of the persewer. *vid. libell.*

Clamour, crying, and voice popular, sould follow ane manslayer. *lib. 4. c. 5. 3.*

And sould be raised vpon ane theif that is fugitiue. *lib. 4. c. 15.*

And likewise vpon him quha deforces the Kings Ministers. *stat. Wilb. 6. 4.*

It is not lesome to slay ane theife vpon day licht, without crying. *lib.*

lib. 4. c. 23.

Gif ane burges man is taken in time of nicht, he fould be taken with clamour and crying. *leg. burg. c. 80.*

Clath may not be made, nor cutted, bot be ane burges man. *leg. burg. c. 22.*

Stranger merchants may not cut clath. *stat. wilh. c. 37.*

Clerk of the Trone, custume, and cocquet. *stat. David. 2. 37.*

Compromit fould be made in arbiters of ane od and vnequall number. *lib. 2. c. 5.*

Compromit may be made in pecuniall, temporall, and spirituall causes, in arbiters. *lib. 2. c. 6.*

Compromit fould be penall, and containe ane penaltie. *lib. 2. c. 6.*

Ane *compromit* oblisses not the heire of the *compromitter*. *lib. 2. c. 10. vid. arbitrie.*

Concubine fould reveale and declare the theft, or trespas of him, to quhom she is concubine. *stat. wilh. c. 19. 9.*

Confession of ane crime or debt, proues lawfullie agains the maker of the confession. *lib. 1. c. 14. c. 27. 4. Mod. ten. cur. c. 12. Quon. Attach. c. 81. 2.*

Confirmation of the king, is necessare in alienation of kirklands. *lib. 2. c. 23.*

And in alienation of his vassalls lands. *stat. wilh. c. 31.*

Ane gift or donation betwixt man and wife, induring the marriage, is confirmed be the death of the husband. *lib. 2. c. 15. 11.*

Alienation of heretage made in dead bed, is confirmed be the consent of the heire. *lib. 2. c. 15. 10. stat. wilh. c. 15.*

Conquers, or purchese of lands, ascends. *Quon. Attach. c. 88. c. 97.*

And swa gif there be thrie german brether; and the zoungest decease, his conquered lands fall ascend to his immediat precedand brother.

Reb. 3. c. 3.

The husband may not augment his wifes dowarie, with lands conquered be him after the mariage. *lib. 2. c. 16. 9.*

Conquessed lands may be aneieid without consent of the heire. *vid. lib. 2. c. 20.*

Ane burges may gif his conquests to quhom he please. *leg. burg. c. 45.*

Conquest is called, that quhilk ane man purchessis be him telfe, and bruiks be his awne richt and deid. *lib. 3. c. 32. 4.* As that quhilk is given to him, bocht be him, or otherwaies acquired be him.

Consenters consent: consenters, and doars are punished with the like paine.

Quon. Attach. c. 83.

Mariage is made be consent of parties. *Quon. Attach. c. 92.*

Ane woman ravished may marie him quha ravished her, within consent of the King, and parents. *lib. 4. c. 8. 10.*

The wife with consent of hir husband may make ane testament. *lib. 2. 36. 7.*

The wife may not be ane cautioner, without hir husbands consent.

Quon. Attach. c. 22.

The husband may not analie his wifes heretage, without hir consent or hir heires. *lib. 2. c. 29. 5. Quon. Attach. c. 20. mod. ten. cur. c. 44.*

The

The Table.

The presentation of ane kirk pertaining to ane woman, may not be competent to the heire without hir consent. *lib. 2. c. 16. 61.*

All consent is not obligatour. And all pactions are ane consent: bot all consent is not ane paction. *lib. 1. c. 28. 3.*

Ane pupill is not oblissed, without consent of his tutour. *lib. 1. c. 30. 5.*

Ane husband is not oblissed be his wifes deid or consent. *stat. David. 2. c. 16. leg. burg. c. 131.*

Heretage may be aneleid vpon the deid bed, with consent of the heir. *lib. 2. c. 18. 7. stat. wilh. c. 13.*

In the samine maner as heireships gudes. *leg. burg. c. 135. 3.*

Gif the father may dispon his heretage without consent of his sonne. *vid. lib. 2. c. 20. c. 21. c. 22.*

Ane burges may not sell his heretage, without consent of his narrest heire: or, except it be first lawfullie offered to him. *leg. burg. c. 115.*

The alienation of the superioritie made be the overlord, without consent of the vassall, is nulle. *stat. Rob. 3. c. 4.*

Without the Kings consent, kirklands may not be aneleid. *lib. 2. c. 23.*

The contract of buying and selling is dissolved be mutuall consent. *lib. 3. c. 10.*

Ane bondman with consent of parties, may not be ane arbiter. *lib. 2. c. 4.*

Arbitrie is ended, and expires with consent of parties. *lib. 2. c. 2. c. 10. 3.*

Because consent of parties, is ane Law to the arbiters. *lib. 2. c. 7.*

They quha consents to the Judge, neides not to be summoned. *lib. 2. c. 16. 30.*

Na essonzie, nor delay, is given to them, quha consents. *Quon. Attach. c. 32.*

Suppose consent induces obligation: zit ilk consent is not obligatour. *lib. 2. c. 28.*

Ane Assise sould proceid agains them quha consented to it. *lib. 1. c. 12. 6.*

For in judgement, ilk mans consent is prejudiciall to him selfe. *lib. 1. c. 12. 7.*

Ane bondman is made frie, be consent of his maister. *lib. 2. c. 12. c. 13. 4.*

Speciallic gif the King consent thereto. *lib. 2. c. 14. 5.*

Any frie man, with his awin consent may become ane bond man. *Quon. Attach. c. 56. 7. c. 70.*

The father may forisfamiliat his sonne with his consent. *lib. 2. c. 33. 8.*

Poynds may not be taken without consent of the King or Lord of the ground. *stat. Reg. David. 2. c. 2. stat. Rob. 3. c. 12.*

Nor within burgh, without consent of the provest. *leg. burg. c. 4.*

It is not lesome to barones to make concord anent theit, without the Kings consent. *Quon. Attach. c. 77.*

Constabill

Constable hes for his fie, ten pounds: And all crimes committed within twa ligges to the King; sould be determed and punissed before him.

Malc. 2. c. 6.

Contumacie, he quha is contumax, and obeyes not the decreit arbitrall given agains him, may be compelled be ane Judge. *lib. 2. c. 9.*

He is contumax quha compeirs not before the Justitiar. *stat. Rob. 3. c. 31. vid. default.*

Court. Ilk man sould hald his court, within his awin heretage. *lib. 3. c. 21. 8. stat. David. 2. c. 27.*

Courts, quhere, be quhom, and how they sould be halden. *mod. ten. cur. c. 1.*

They sould not be halden within kirks, kirk zards, or in halie places. *Quon. Att. ch. c. 86.*

They sould be halden in places, quhere men and beasts may come quietlie. *stat. 1. Rob. 1. c. 10.*

In ane tensed court, na man sould speik, bot the parties, their procuratours, and the soytours. *Quon. Attach. c. 35. mod. ten. cur. c. 1. c. 59. stat. gild. c. 17.*

In the Kings court, gif any man drawes ane knife, it salbe striken throw his hand: gif he wound any man, his hand salbe cutted off: gif he slay any man, he fall giue to the King twentie ninekye: and fall satisfie the partie. *stat. with. c. 6.*

The Schiref court salbe halden in ilk Schirefdome within fourtie dayes. *stat. David. 2. c. 9.*

Na man sould come to court with ane multitude of people. And be the way fall not waist nor destroy any thing. *stat. David. 2. c. 11.*

Ane court may be continewed for divers causes. *Quon. Attach. c. 24. mod. ten. Cur. c. 34. leg. burg. c. 51.*

Gif any Earle or Baron does the samine malitiousslie, he tynes his court for ever. *stat. 1. Rob. 1. c. 31. 3.*

Defaults and delayes are permitted, for profite of the court. *Quon. Attach. c. 4.*

The inferiour court may be summoned to make record in the Kings court. *lib. 3. c. 23.*

Ane man may eik or pair ane record or interloquutour of ane inferiour court. *lib. 3. c. 24.*

The record or interloquutour of the court, sould be pronounced be the soytours. *Quon. Attach. c. 36.*

The court is not oblissed to defend the record (*interloquutour*) be battell: bot sould defend the sentence thereby. *lib. 3. c. 24. 3. 6.*

The kings court sould gif counsell, and advise to the barones craue and the samine. *lib. 3. c. 23. 6.*

Gif any court is convict off false judgement, the maister of the court, is in the kings mercie. *lib. 3. c. 24. 9.*

He quha repledges ane man, fra ane other mans court, & within zeire and day does not justice, tynes his court for zeire and day. *Quon. Attach. c. 8. 6. mod. ten. cur. c. 25.*

He

The Table.

He tynes his court, quha halds court in time forbidden. *Quon. Attach. c. 9. mod. ten. Cur. c. 26.*

And siclike he, quha refets or mainteines malefactours. *Malc. 2. c. 10. stat. Wilh. c. 7. 6.*

The soytours sould come to the head courts without any summons. *Quon. Attach. c. 33. 5.* Bot they sould be summoned to other courts. *mod. ten. Cur. c. 53.*

The Parliament is the supreme court next therafter, the Justice court: the Schiref court; the baron court: the court of the friehalder: and last of all, the court of the subvassour: the inferiour court vses the samine lawes, and halfe of the vnlaw of the superiour court. *Malc. 2. c. 8. 6. 7.*

Within burgh, is the borrow court, subject to the Chalmerlan. *mod. ten. Cur. c. 17. Chalm. air. c. 38.*

Cro of ane man flaine be ane horse, he quha rides vpon him in the meane time, sould pay the *Cro. lib. 4. c. 24.*

The *Cro* of ilk man, how meikill it is. *lib. 4. c. 36.*

Crowner sould arreist men to compeir before the Justitiar of his sic, and expenses. *Malc. 2. c. 3. 3. c. 15.*

He sould attache him quha is suspect of murther: and sould burie the dead corps of him quha is murthered. *Malc. 2. c. 15.*

He sould attache malefactours, gif their accuser alledges the Kings peace to be broken be them. *Malc. 2. c. 16.*

He may attache natives and bondmen, denyand their awin Nativitie. *Quon. Attach. c. 56.*

He may arreist malefactours, before, or after the proclamation of the Justice aire. *stat. Rob. 3. c. 32.*

He sould inquire anent the sea wreck. *stat. Alex. c. 25.*

Crymes taken vp be dittay, sould be determed before the Justitiar, be ane Affise. *lib. 1. c. 1. lib. 4. c. 5. 5.*

Quhilk Affise sould be of friehalders. *stat. Alex. c. 2.*

In criminall causes, the principall malefactour sould be discussed before the commander, or the refetter. *lib. 4. c. 26.*

Quhilk is speciallie ordained anent theift *Quon. Attach. c. 83.*

Ane malefactour may be accused be the King, albeit he is assoilzeid at the instance of the partie. *lib. 4. c. 29. mod. ten. Cur. c. 81.*

The Schiref may accuse ane man for theift, suppose there is na other accuser. *Quon. Attach. c. 42.*

In ane day, na man sould answer any man, bot for ane crime. *Quon. Attach. c. 65.*

In all crimes, ilk man sould be judged be his peires. *Quon. Attach. c. 67. stat. Alex. c. 2. leg. burg. c. 7.*

Na man sould be condemned, bot gif he be first summoned and accused. *stat. Rob. 3. c. 41.*

Crimes sould be punissed in the place, quhere they are committed. *stat. Wilh. c. 18. stat. 1. Rob. 1. c. 4.*

He quha is condemned of ane crime, sould be punissed without remission.

mission *stat. 1. Rob. 1. c. 3.*

Crymes committed be them quha comes, remains, or returns fra the Kings hoist, sould be punished be the Iustitiar. *stat. 1. Rob. 1. c. 4.* He quha is accused of ane cryme, sould not be dispossessed of his moveable gudes, vntill he be convict; bot they sould be put in ane inventar, and the malefactor sould be imprisoned, and susteined vpon his awin gudes. *stat. 2. Rob. 1. c. 22.*

Na man sould complaine to the King for any cryme, except he first complaine to his maister, or to the Schiref. *stat. David. 2. c. 8.*

Criminall causes and courts, sould be halden be the Schiref and Barons, in the samine maner, as the Iustitiar does. *stat. Rob. 3. c. 33.*

Frieholders, haldand of Barons, may not hald courts in criminall causes. *Malc. 2. c. 8. 7.*

For all they quha are inferiour to Barons, hes na criminall jurisdiction. *Quon. Attach. c. 43.*

Because criminall causes are decided in na court, inferiour to Baron court. *Quon. Attach. c. 43. Mod. Ten. Cur. c. 47.*

Criminall causes quhilks are punished be death, or tinsell of ane member perteines to the Iustitiar, and his court. *Lib. 1. c. 1. 5.*

And to their courts, quha are infest in sock, sack, pit, and gallous, in-fangtheit, out-fangtheit. *Lib. 1. c. 4. 3.*

Criminal causes may not be decerned in ane court, not haue and power of life and limme. *Mon. Ten. Cur. c. 27. Vid. Causs. s. Vid. Accuser. Vid. Accused.*

Cubrecht is ane pledge, left be him quha repledges ane man fra ane court, to his awin court, for doing of Justice to him, quha compleines vpon him, quha is repledged. *Quon. Attach. c. 8. 4. mod. ten. cur. c. 25.*

Curtesie of Scotland, is quhen ane man marries ane heretrix of lands: procreates vpon hir ane quick barne, maill, or female: And it happens the woman onlie, or beath the woman and the bairne, to de-ceise: the man or husband fall possesse the lands perteing to his wife, induring his lifetime: quhither he be the first husband, or the secund husband. *lib. 2. c. 58. or ane burges within burgh. leg. burg. c. 44.*

Custom sould be payed to the King be all them quha buyes victuall. *stat. Rob. 3. c. 8.*

Schipmen being strangers cumeand to this Realme, sould pay custom. *leg. burg. c. 27.*

Strange merchants, quha caries to the market barked hides, fall pay custome. *stat. gild. c. 41.*

They quha payes not customes, are punissed. *leg. burg. c. 141. c. 142.*

Customers may be accused before the Chalmerlan. *Iter. Camer. c. 12.*

They quha transports furth of the Realme silver, horse, oxen, kye, sould pay custome. *stat. David. 2. c. 37. c. 49.*

Custom sould be payed for merchandises fauld within burgh. *stat. wilh. c. 36.*

The Table.

He quha commits fraude in paying custome, is in the Kings mercie, with all his gudes. *leg. burg. c. 143.*

D.



DAMNAGE and skeath susteined be the persewer, be reason of defaults made be the defender, may be taxed: and salbe payed to him be the defender compeirand at the fourt court. *Quon. Attach. c. 4. 5. 6.*

He quha accuses ane other of theft, may liquidat his damage agains him. *Quon. Attach. c. 12.*

Damnages modified in the breive anent breaking of the Kings peace sould be payed. *Quon. Attach. c. 54.*

Damnages and skaiths may be modified and taxat be ane assise. *Quon. Attach. c. 6. 8. c. 69.*

The sergent quha neglects to make attachment, fall pay the damage to the partie. *Mod. Ten. Cur. c. 5.*

Damage done be ane beast to ane other, or be ane man to ane beast. *stat. 1. Rob. 1. c. 33.*

Damage and skaith sould be modified within the quantitie of the principall summe. *Mod. Ten. Cur. c. 11. c. 19.*

In criminall causes they sould be modified to ane great summe, that he quha is accused fall not easilie finde ane pledge for them, and swa he fall be compelled to refuse battell, and passe to ane assise. *Mod. ten. cur. c. 80.*

The damage sould be payed be him, quha keipes not finall concord, and arbitrie. *lib. 1. c. 27. 6.*

He quha does injurie to ane other within burgh, payes the damage. *leg. burg. c. 103.*

Default, delay, or contumacie committed be any man, quha is essonzeid, he quha makes the essonzie, sould answer for the samine. *lib. 1. c. 8. 11.*

Gif beath the persewer, and defender makes ane default, swa that neither the ane, nor the other compeirs, they beath are in the Kings mercie. *lib. 1. c. 8. 35.*

The defender in actions of wrang and vnlaw, after three essonzies, may make three defaults; and for ilk default, fall pay ane distres. *Quon. Attach. c. 4. 8. mod. ten. cur. c. 5.*

Quhen the defender makes ane default, the persewer in all the courts sould verifie his summons. *Quon. Attach. c. 56.*

Gif the defender makes ane default, at the fourt court, he for nulle defence tynes the pley. *Quon. Attach. c. 58. Mod. Ten. Cur. c. 18. c. 24.*

The defender may compeir at the fourt court, and saue, and defend all his essonzies and defaults. *Mod. Ten. Cur. c. 9.*

The defender may tyne his land, for his default, bot he may recover the samine within fiftene dayes. *stat. 2. Rob. 1. c. 16.*

He quha is accused criminallie, may make thrie defaults. *Mod. Ten. Cur. c. 76.*

The pledge is vnlawed, for the default of the defender. *mod. ten. cur. c. 8.*

Gif

Gif the perfewer makes ane default, the defender is frie fra that summons : bot he may be summoned of new againe. *Quon. Attach. c. 6.*

The overlord not compeirand, and swa makand ane default, tynes the land, or superioritie thereof. *lib. 1. c. 25. 4.*

Gif the perfewer makes ane default, at the fourt court, he is halden as not perfewand. *Quon. Attach. c. 58. mod. ten. cur. c. 18.*

He makes ane default quha vses ane vnlawfull effonzie. *stat. 1. Rob. 1. c. 26.*

Quha tynes lands be default, may recover the samine : except it be be battell, or be ane great Assise. *Quon. Attach. c. 96.*

Defender lauchfullie summoned to three courts, may make three defaults: and ane distresse may be taken for default : and ane amerciament for ilk distresse. *Quon. Attach. c. 4.*

The defender being lawfullie summoned, may vse his lawfull effonzies. *vid. effonzie.*

The defender gif he compeirs not at the three courts, nor sends not ane excuse, he may be vnlawed for ilk time of his non compeirance, except he compeir thereafter, and saue his defaults. *mod. ten. cur. c. 7.*

The defender not compeirand at the fourt court, halden anent lands be breive of richt; the lands salbe taken in the Kings hands : And gif the defender comes within fiftene dayes, he may recover the samine : otherwaies he tynes the land. *lib. 1. c. 7. 5. c. 8. 6.*

In other pleyes gif the defender compeirs not in the fourt court : he tynes the pley for null defence. *Quon. Attach. c. 55. mod. ten. cur. c. 9. c. 24.*

And mair over, he payes to the perfewer his damnage and skaithes : and also three vnlawes. *Quon. Attach. c. 4. 6.*

In the question of libertie, quhen ane man alledges the defender to be his bondman : gif the defender compeirs not the day of the summons : he losses his libertie, and becomes ane bondman. *lib. 2. c. 11. 6. 7.*

The defender compeirand at the fourt court. In that case, gif the perfewer makes ane default : the defender is free fra that summons. *Quon. Attach. c. 6.*

Gif the perfewer makes na default, bot baith he, and the defender compeirs : In that case, gif the defender vses na defenses; ane Assise salbe chosen to trye the trewth. *lib. 1. c. 12.*

And the defender fall pay als many vnlawes, as he made defaults. *mod. ten. cur. c. 10.*

Bot gif the defender compeir the fourt day, and vse defences agains the perfewer. *lib. 2. c. 2. 4.*

He may vse his lauchfull effonzies. And gif he denies all the summons agains him; for ilk summons he fall sweir, and elevin persones fall sweir with him : and gif he and they sweir lawfullie (he salbe free of amerciaments) bot he fall answer in the principall cause. *lib. 1. c. 7. 13.*

And albeit in three courts, he is effonzeid three times. *lib. 1. c. 7. 14.*

The Table.

Quon. Attach. c. 4.

Nevertheles at the fourt court, he may proue all his effonzies, be his awin eath, and of ane other makand faith with him. *lib. 1. c. 8. 4.*

And all his exceptions dilatours, and others are granted to him. *mod. ten. cur. c. 9.*

Bot the defender sould not answer to the perfewer: vntill the perfewer verifie his summons. *lib. 1. c. 6. 4.*

Bot after the probation of his effonzies, in the breive of richt, he may desire the ground to be sighted. *lib. 1. c. 9.*

Bot he sould not be compelled to answer to the perfewers clame, vntill the perfewer haue proponed his clame. *lib. 1. c. 11. stat. 1. Rob. rt. 1. c. 18. c. 9. 3.*

Because the breive sould be first redde: Then the perfewer sould produce his clame. Thirdlie, the defender sould make answer to the clame. And to the effect he may answer, he with licence may passe furth of court, to seik countaill of his friends. And swa to propone his exceptions, first agains the Kings breive: secundlie contrare the perfewers clame. *lib. 1. c. 11. Quon. Attach. c. 8. 4.*

Bot the defender may not be compelled, to answer to the perfewer, vpon ane day, bot onlie to ane clame or challenge. *Quon. Attach. c. 65. leg. burg. c. 83.*

The defender may call his warant anent any thing, for the quhilk he is challenged. *lib. 1. c. 15. vid. warant.*

The defender being condemned in the possessours judgement, of the breive of mortancestrie: may pley thereafter in the judgement petiour be the breive of richt. *lib. 3. c. 28. 15.*

Gif neither the defender, nor the perfewer compeirs in court, they baith may be summoned be the Judge, and vnlawed. *lib. 1. c. 8. 35. mod. ten. cur. c. 23.*

De forceres of the Kings officiars exercising their offices, sould be punissed be prison, and confiscation of all their moueable gudes. *stat. Wilh. c. 4. 5.*

He quha deforces the kings officiars, and stops the taking of poynds, sould restore the poynds, and to that effect, may be distrenzeid in his gudes. And gif he be disobedient: he may be attached personallie: and being convict, salbe in the Kings mercie of his life and limme. *stat. 2. Rob. 1. c. 21. 10. 11.*

The pley anent deforcement of poynds perteines to the Kings court. *lib. 4. c. 27.*

Deed (factum) Ane man may revoke or againe say his awin proper deed. First, gif he is minor, and enormelic hurt, he may seike restitution. 2. Gif he is in prison, or vnder the power of his enemies, he may seik restitution, be reason of just feare and dreadour. 3. The deed done be ane man quha is lunatick, or furious, is null. *Quon. Attach. c. 29.*

Deiſ man, may not be ane arbiter. *lib. 2. c. 4. 3.*

Debt recovered be decreit of ane Judge, sould be payed within fiftene dayes. *Quon. Attach. c. 7. mod. ten. cur. c. 14.*

The

The pley anent debts of laick men, perteines to the Schirefs court. *lib.*

1.c.3.6. Or to the Kings court. *lib.3.c.1.*

Debts contened in ane mans testament, sould be payed be his heire. *lib.2.c.35.*

The debts sould be defalked out of the gudes of the defunct, and payed to the creditours. *lib.2.c.39.*

The debt may not be craued, before the day of payment. *lib.3.c.4.*

And gif na day of payment is aggreid, or mentionat: the debt may be craued presentlie. *lib.3.c.4.2.*

Anent payment of debts, the breive of distres is valable. *Quon. Attach. c.4.*

Debts aweand to the King, sould be first payed. *stat. wilh. c.21.*

Bot the King, nor na other creditour, may take possession of the debtours lands, sa lang as he hes moueable gudes. *stat. 2. Rob. 2. c.9.*

The debtour may be imprisoned. *stat. 2. Rob. 1.c.20.*

Anent him, quha feis ane servant burdened with debts. *stat. 2. Rob. 1.c.31.*

The principall debt with the annuell, sould be payed. Bot gif the heire of the debtour is minor, he sall not pay the profite or annuell; vn- till he be of perfite age. *stat. Rob. 3.c.21.*

Of ane debt, there is bot ane debtour: for gif there be mae debtours nor ane, be the payment made be ane, the rest are made frie. *leg. burg. c.113.*

The proces anent the recovering of merchants debts. *stat. 2. Rob. 1. c.19.*

Ane minor sould answer for his awin debts, and also for the debts of his prediceffours. *lib.3.c.32.15.*

Vntill all the debt be payed, the poynds sould be delivered to the creditour. *stat. 2. Rob. 1.c.21. vid. Poynds.*

The debtours lands may be sauld be his pledge: or be his creditour. *leg. burg. c.94.c.95.*

Because the principall debtour is oblissed to his pledges. *lib.3.c.1.16.*

The debt sould be payed be the moueable gudes, perteing to the debtour: otherwaies his lands may be comprised, and sauld. *stat. Alex. c.24.*

The debt being payed, the wad sould be restored to the debtour: and sould na langer be deteined be the creditour. *lib.3.c.6.*

Debt may be proven be the eath of the partie. *lib.3.c.7.* As be the eath of the creditour. *stat. David. 2.c.6.3.* And betwixt ane burges, and the debtour. *leg. burg. c.30.*

Or it may be proven be writ, witnes, or singular battell. *lib.3.c.8.*

Or be the confession of the debtour. *mod. ten. cur. c.12.*

Ane debt of fourtie shillings, may be proven be witnes: And gif it ex- cide that summe, it sould be proven be writ. *Quon. Attach. c.81.*

Debt may be proven be the eath of the debtour, and five others. *Quon. Attach. c.5. mod. ten. cur. c.13.*

The Table.

Ane debtour after the decreit pronounced agains him, may make cessi-
on of his gudes. *Quon. Attach. c. 3. stat. With. c. 17.*

Disclamation and forme thereof, quhen ane vassall disclaimes his over-
lord. *stat. Rob. 3. c. 18.*

And he quha vnjustlie disclaimes, tynes, and forfaltis his lands, quhilke
he holds of that overlord, quhom he disclaimes. *lib. 2. c. 63. 6. 9.*

Distres, the breive of distres, or of poynding for debt, perteines to the
Justice court. *lib. 1. c. 5. 5. the forme and proces thereof. Quon. Attach.*
c. 49.

The heire of the husband deceased, may be distrenzeid be his lands,
or be pledges, to compeir in court, and to warant to the relict wife of
his predecessour, hir dowarie. *lib. 2. c. 17.*

Ane waist tenement may not be distrenzeid, for the arrierages of the
zeirelie rent. *Quon. Attach. c. 46.*

Distresses or poynds sould not be taken, without licence or confide-
ration of the court. *stat. 2. Rob. 1. c. 15. vid. poynding.*

Dissaising. vid. Novell dissaising.

Dittay, sould be taken vp be the Justitiar of all malefactours, and their re-
setters be the eath of thrie men, and the steward of the village. *stat. A-*
lex. c. 2. And be the Justitiars precept. Iter Justic. c. 2.

And of ane okerer, quhither he vsed the crime of oker vntill his deceise
or not. *lib. 2. c. 54.*

And of Mureburneris in other moneths, then March. *stat. Rob. 3. c. 11.*

And of them quha takes poynds without licence of the King, or the
Lord of the ground. *stat. Rob. 3. c. 12.*

The poynts and articles of dittay in the Chalmerlane aire. *Iter Camer.*
c. 39.

The dittay sould not contene the cause of the attachiament, or of the
summons. *Quon. Attach. c. 64.*

Divorcement betwixt man and wife, may be, in respect of turpitude of
ane crime, or be reason of blude. *lib. 2. c. 16. 73. c. 17. 5.*

Dochter being hir fathers heire, may not marie, without consent of the
heire Lord. *lib. 2. c. 48. 5.*

The dochter being ane onlie, succedeis to the father. *lib. 2. c. 28. kg.*
burg. c. 25.

The dochter haueing receaved any thing in name of tochir, fra hir fa-
ther, after his deceis, sould confer and communicat the samine with
the rest of hir sisters. *stat. Rob. 3. c. 35. 5.*

The dochters succedeis to their father in equall portions, reservand
the principall messuage to the eldest. *lib. 2. c. 28. 2. 3.*

The dochter is excluded fra all succession be the sonne: Because ane
woman never succedeis with ane man. *lib. 2. c. 30.*

Dochters gotten be ane father, and sindrie mothers, succedeis equal-
lie to their father: bot ilkane of them succedeis to their mothers here-
tage, excluding the rest. *lib. 2. c. 31.*

Dogge, or hound, quhilke keipes ane mans house being slaine be any man,
the slayer fall watch and walke the middin perteing to the dogges
Maister,

Maister, be the space of ane zeire, and ane day. *stat. David. 2. c. 15.*

Ane sleuth-hound sould not be stopped, nor troubled. *lib. 4. c. 32.* Bot the licence of the Lord of the land sould be socht, quhen any man folowes theifes with ane sleuth-hound. *lib. 4. c. 33.*

Dombe man, may not be ane Arbitrer. *lib. 2. c. 4. 3.*

Donation be reason of mariage, is given to the woman for hir sustentation, the mariage being dissolved, it returnes to the husband. It may not be aneid be him, gif it be given before the mariage, it may be mair nor the tocher: and given after the mariage, it sould be equall, or lesse. The profites and frutes thereof, perteynes to the husband. *lib. 2. c. 15.*

Donations betwixt man and wife, induring the time of the mariage, are forbidden; bot gif any sic donation be made, the same is confirmed be the death of the donatour, or giver. *lib. 2. c. 15. 10.*

Ane man may giue and dispoise his lands in his liege powstie, agains the will of his heire: bot not in his dead bed. *lib. 2. c. 18. 17.*

Donations may be revoked. *stat. Rob. 3. c. 17. leg. burg. c. 11. vid. analie.*

Dowarie is the terce or the thrid of the lands perteyning to the husband, given be him to his wife, the time of the mariage. *lib. 2. c. 16. 1. 5. 60.*

Gif the husband names expresse the dowarie, he may not giue mair nor the thrid part of his heretage, perteyning to him the time of the mariage: albeit he may giue lesse. *lib. 2. c. 16. 4. stat. Alex. c. 22.*

The heire of the husband deceased, sould giue to the wife, all the pertinents of the dowarie. *lib. 2. c. 16.*

The dowarie or great terce, perteyning to ane woman, sould not come in the division anent the secund terce. *lib. 2. c. 16. 64.*

Dowarie sould be measured to ane certaine quantitie, swa that it be na mair nor the thrid part of the heretage; albeit it may be equall, or lesse nor the husbands heretage. *lib. 2. c. 16. 77.*

The dowarie perteynes to the wife, albeit the lands be in the superiours hands, be reason of warde. *stat. Alex. c. 9.*

He quha dispossesses ane widow of hir dowarie, fall pay to hir the valour, and profites thereof, fra the death of hir husband: and mair over, falbe in the kings mercie. *stat. Rob. 3. c. 20.*

Dowarie may be tynt and amitted sindrie wayes. *vid. wife.*

The pley anent dowarie perteynes to the Ecclesiasticall jurisdiction. *lib. 1. c. 2. vid. terce. vid. widow. vid. warrant. vid. minor.*

Dustie fute (ane Pedder, or Cremar, quha hes na certaine dwelling place, quhere he may dight the dust from his feet) sould be judged conforme to the Lawes of merchants. *leg. burg. c. 120.*

And Justice sould be done to him, summarlie, without delay. *leg. burg. c. 134. 3. c. 140.*

The Table.

E.



EJECTED and dispossessed furth of the possession of lands, should be first restored to his possession. *stat. Rob. 3.c.15. leg. burg. c.101.*

Na man should be ejected, or dispossessed furth of his lands, or heretage, bot be ordinarie way of Justice.

stat. 1. Rob. 1.c.25.

Because ilk man should possesse his awin lands, and abstaine fra other mens lands. *stat. David. 2.c.10. vid. Novell dissaisin.*

Some time, ane man is ejected furth of his possession, as furth of lands wadset to him. Some time furth of franctenement, as lands pertaining to him induring his life time. Some time furth of his fie, and heretage, as quhen ane man is stopped, to enter to his lands, after the death of his father. Some time ane man is ejected furth of his possession, lyfrent, and fie together; as quhen ane is ejected furth of his lands pertaining heretablie to him, and justlie possessed be him, *leg. burg. c.135.*

English money should haue course within this Realme. *stat. David. 2.c.35. vid. money.*

Escheit, all beasts may be escheted, quhilke divers times are fed and pastured, within ane other mans lands, or girse. *Quon. Attach. c.48.6 mod. ten. cur. c.6.3.*

All beasts, quhilke slayes any man, may be escheted to the King. *Quon. Attach. c.48.12. mod. ten. cur. c.63. vid. horse.*

Escheites are of gudes moueable, or vnmoueable: And siclike are perpetuall or temporall. *Quon. Attach. c.48. mod. ten. cur. c.60.*

The escheit of malefactours may pertaine to him, quha is infest be Chartour, with escheits. *leg. Malc. 2.c.9. Quon. Attach. c.12.5. mod. ten. cur. c.32.*

The cattell, or moueable gudes pertaining to him, quha dies intestat, pertaines as escheit to his overlord. *lib. 2.c.53. Quon. Attach. c.48.15.*

The escheits of malefactours, should be publicklye sauld be the Schiref. *stat. Rob. 3.c.28.*

Swine, goates, geese, hennies, within burgh, are escheted and slaine. *leg. burg. c.126.*

All escheits in the Chalmerlane aire, should be presented to the King. *Iter. Camer. c.34.*

All the moueable gudes of ane felon, pertaines to the King: And gif he is convict of felonie, or confesses the samine, his lands shalbe escheit to the King, be the space of ane zeire, and ane day, albeit they be halden of ane other overlord. Bot after the zeire & day, they pertaine to his overlord: because the lyfrent escheit pertaines to the immediat overlord. *lib. 2.c.55.10.11.12. vid. felon.*

The like is to be said, of the gudes and lands of ane man slayer. *Quon. Attach. c.15. mod. ten. cur. c.41. c.66.*

The escheit, & frutes of lands pertaining to ane felon, quha is vnlawed after

after zeire and day, are compted and raikned amongs gudes moue-
able. *Quon. Attach. c. 18. 5.*

All things haueand na Lord nor Maister, perteines to the King, as es-
cheit. *Quon. Attach. c. 48. 4. mod. ten. cur. c. 60.*

The lands of ane woman being heretrice of warde lands, and com-
mittand fornication, perteines to the overlord as escheit. *lib. 2. c. 55. 2. c. 49. 1. 2.*

The vassallis lands, perteines as escheit to the overlord, vntill the rich-
teous heire beis knawin. *lib. 2. c. 55. 2. 3.*

The lands of traitours, are perpetuall escheit. *vid. lease majestie. vid. per-
dition.*

Escheits may not be taken vp in ane court, inferiour to ane baron
court: except sic courts hes speciall priuledge. *Quon. Attach. c. 43.*

Escheit falls not, bot be reason of ane fault or crime. *Quon. Attach. c. 48.
13. mod. ten. cur. c. 64.*

Essonzie or excuse, is be reason of infirmitie or bedevill: or for the Kings
service: or be reason of being at ane publick Faire. *Quon. Attach. c. 57. 5.*

Or be reason of pilgrimage. *lib. 1. c. 8. 24.*

The *essonzie* be reason of absence furth of the cuntrie, or being at ane
publick Faire, may be proven be the eath of him quha is *essonzeid*,
and of ane witnes. *stat. wilh. c. 26.*

The persewer may vse ane lawfull *essonzie*. *lib. 1. c. 8. 31.*

Als many *essonzies* are granted to the persewer, as to the defender.
leg. burg. c. 111.

The forme and maner to *essonzie*, or excuse any man. *mod. ten. cur.
c. 40.*

The *essonzies* are admitted to the defender, in three courts *lib. 1.
c. 7. 2.*

The persewer may vse *essonzies* in the question of his libertie or e-
state. *lib. 2. c. 11. 7.*

Twa *essonzies* are granted to the defender, in the breive of mortan-
cestrie. *lib. 3. c. 28. 10.*

And some time na *essonzie* is granted. *Quon. Attach. c. 52. 3.*

In the recognition, quither lands are kirklands, or temporall, the de-
fender hes bot twa *essonzies*. *lib. 3. c. 34. 2.*

Essonzies sould be admitted within burgh, in pleyes anent lands and
tenements. *leg. burg. c. 46.*

In the breive of mortancestrie, the *essonzie* of him quha is major, hes
na place agains ane minor. *lib. 3. c. 30. 1.*

Bot the *essonzie* of ane minor, contrare ane major, is admitted *lib.
3. c. 32. 1.*

They quha sould come to the head courts, may vse *essonzies*. *Quon.
Attach. c. 33. 1. 6.*

Essonzies are granted to the defender, in actions of wrang, and vnlaw.
Quon. Attach. c. 4. 2. mod. ten. cur. c. 6.

Lawfull *essonzies* hes place within burgh, in the breive of richt. *Quon.
Attach. c. 57. 5. leg. burg. c. 97.*

The Table.

In the fourt court, na effonzie is admitted, bot be reason of infirmitie, or the Kings service. *lib. 1. c. 8. mod. ten. cur. c. 24.*

And fourtie dayes are granted to him quha is effonzeid. And gif any man vse this effonzie fraudfullie, and compeirs not: he tynes his acti- on, and richt. *with. c. 26. 3.*

Effonzies are granted to ane procuratour, vntill his procuratorie be revoked. *lib. 3. c. 16. 2.*

Soytours may vse effonzies. *Quon. Attach. c. 33. mod. ten. cur. c. 54.*

Ane effonzie onlie is admitted, quhen the overlord and the vassall contends anent soyt of court. *stat. 2. Rob. 1. c. 4.*

Three effonzies are granted to the defender calland his warrant: and als manie to the warrant him selfe. *lib. 1. c. 15. 10. lib. 3. c. 33.*

Bot na effonzie is given to the warant, vntill he first compeir in court. *stat. David. 2. c. 25.*

Effonzies are admitted to him, quha is accused of treason. *lib. 4. c. 1. 11.*

Effonzies hes place in pleyes of the crowne. *stat. with. c. 2. 4.*

Three effonzies are admitted in the breive of breaking of the Kings protection. *Quon. Attach. c. 54. 3.*

They quha are indited before the Justitiar, may vse ane effonzie be reason of infirmitie, and ane other, be reason of the kings service. *stat. 1. Rob. 1. c. 6.*

Effonzie of infirmitie, is proven be witnes. *lib. 1. c. 8. 10.*

And gif it be made at the fourt court, it sould be instantlie proven. *mod. ten. cur. c. 24.*

Before the Justitiar, it is tried be ane Assise. *stat. 1. Rob. 1. c. 6.*

Effonzie be reason of the Kings service, may be proven be the Kings letter. *stat. 1. Rob. 1. c. 6. mod. ten. cur. c. 24.*

Effonzies sould be lawfull, otherwaies they sould not be admitted. *stat. 1. Rob. 1. 26.*

They sould not be admitted without ane pledge. *Quon. Attach. c. 33. mod. ten. cur. c. 54.*

Na effonzie is granted to him, quha awis three soytes in court. *Quon. Attach. c. 33. 7.*

Effonzie hes na place in novell dissaisin. *lib. 3. c. 25. 11. c. 36. 3.*

Na effonzie is admitted to them, quha willinglie passes to ane Assise. *Quon. Attach. c. 32.*

Na effonzies hes place agains ane dustifute. *leg. burg. c. 134.*

Na effonzies are granted to him, quha are called for deforcing of poynds. *stat. 2. Rob. 1. c. 21.*

Nor in ane proces of recent deforcement within burgh. *leg. burg. c. 135.*

Nor in Novell dissaisine. *lib. 3. c. 25. 11.*

He quha effonzies ane other, sould answer for his default, or non compeirance. *lib. 1. c. 8. 11.*

And he may compeir in the fourt court, and saue all his effonzies. All effonzies are discharged in the Justice aire, because the first day is peremptour. *Iter. Inst. c. 9.*

Excepti-

Exceptions should be proponed be the defender, first contrare the Kings breive: thereafter contrare the persewers clame. *Lib. 1. c. 11. 5.*

Because first they should be proponed against the summons, or attachment. *Quon. Attach. c. 84.*

But they should not be proponed, vntill the breive be first read in court.

Stat. 1. Rob. 1. c. 19. 3.

They should be admitted without any pledge, except they be frivolle.

Quon. Attach. c. 34. mod. ten. cur. c. 56.

All exceptions, dilatour, and others may be proponed be the defender compeir and in the fourt court. *mod. ten. cur. c. 9.*

And speciallie be him quha is accused criminallie. *mod. ten. cur. c. 77.*

Exception of payment should be proven, be the proponer. *Stat. 2. Rob. 1. c. 23.*

Gif the defender propones na exceptions, the mater or controversie should passe to ane Assise. *Lib. 1. c. 12. 1.*

Or ellis the libell is admitted to probation. *mod. ten. cur. c. 11.*

Sindrie exceptions stayes the breive of mortancestrie. *Lib. 3. c. 29.*

Exception of propertie, objected agains the persewer, stayes the recognition of the richt of patronage. *Lib. 3. c. 33. 7.*

Excommunicat man, may appeale to the conservatour of the Clergie within fourtie dayes: and fra him, to the generall assemble and convention of the Clergie. *Stat. Rob. 3. c. 6.*

He quha is excommunicat, is infame. *Stat. with. c. 11. 5.* And therefore he may not accuse ane other, nor be witnes. *Stat. 2. Rob. 1. c. 34.*

And gif he be taken, he may not be put to libertie vpon pledges. *Stat. Rob. 3. c. 14.*

Executours, vid. testament.

Exheredation, the sonne, speciallie the eldest should not be rashlie or without ane iust cause disheresed be the father. *Lib. 2. c. 19. 2. 3.*

The father may be disheresed, quha mareis his dochter, or dochters being his heires, without consent of his overlord. *Lib. 2. c. 48. 5.*

Ane woman being heretrix of ward lands, is disheresed, gif she within the time of hir ward commit fornication. *Lib. 2. c. 49 c. 55. 9.*

Gif ane man vses vsurie and ocker, vntill the time of his decease, he and his heires are forfeited. *Lib. 2. c. 54. 4. 5.*

The heire of ane traytour is disheresed. *Lib. 4. c. 1. 17. Quon. Attach. c. 19. 3.*

The vassall is disheresed, gif he does any thing to the exheredation of his overlord, or any injurie to him, or denyes to him his service *Lib. 2. c. 63.*

Ane minor may not be compelled to answer in any pley, quhere he may be disheresed. *Lib. 3. c. 32. 15.*

Gif ane man tines his land be his default in ane Assise, or be battell, his heire is disheresed for ever. *Quon. Attach. c. 96. 4.*

He is disheresed quha is convict of false weichts and measures. *leg. bu. 3. c. 132.*

Na man is disheresed for the felonie committed be ane other man: for

The Table.

for the sonne sould tyne his fathers heretage, albeit his father is accused of felonie, and not convict. *Quon. Attach. c. 98. lib. 2. c. 55. Quon. Attach. c. 102.*

Expenses of pley. vid. damage. vid. defender.

F.



FAIRE, munda: In time of publick Faire, na man may be poynded. *leg. burg. c. 3.* nor taken, or apprehended, or attached: except for great and grievous crimes. *leg. burg. c. 91.*

Swa the native bondman, fugitiue fra his maister, may not be taken in the time of ane Faire. *leg. burg. c. 93.*

The defender may essonzie, and excuse himselfe, be reason of his being at ane publick Faire. *lib. 1. c. 8. 30.*

All men in time of ane Faire, hes lott, cutt, and cavill. *leg. burg. c. 59.*

In time of ane Faire, regreeters may frelie buy and sell. *leg. burg. c. 73.*

The court of the Faire, may be halden after the Faire, anent things found in the Faire, and alledged rest, stollen, or tynt. *leg. burg. c. 92.*

Falset committed in the Kings Chartour, or the overlords, is punissed as treason. And gif the Chartour pertienes to ane private persone; the falsifier thereof is punissed be the death: or be the cutting or tynsell of his members, or member. *lib. 4. c. 13. 4. 5.* or be the Kings mercie. *lib. 3. c. 8.*

They quha are art, and part of the falset, are punissed in like maner. *stat. Alex. c. 19.*

Ilk burges haueand and vsand false weichts, and measures, may be vnlawed. *leg. burg. c. 52. c. 74.*

And he may be punissed to the death, and his heires forfeited. *leg. burg. c. 132.*

Falsing of Domes (*reduction of decreiteis*) sould be done incontinent be the partie agains quhom they are given, gif he be present. And gif he be absent, he may falsifie the samine within fourtie dayes. *Quon. Attach. c. 13. 4. 5. mod. ten. cur. c. 15. c. 33. stat. wilh. c. 10.*

The forme, and causes, for the quhilk ane dome may be falsified. *stat. wilh. c. 10.*

Ane dome, or sentence pronounced in ane baron court, may be falsified before the Schiref. And the dome given be the Schiref, sould be falsified before the Justitiar. And the dome given be the Justitiar, sould be falsified before the Parliament. *Quon. Attach. c. 13. 6. mod. ten. cur. c. 15.*

Dome given before the Justitiar, be ane stranger, sould be falsified the samine day, be the soytours of the court. *Quon. Attach. c. 35.*

Dome given within burgh, sould be falsified and reduced before the Chalmerlane. *mod. ten. cur. c. 17.*

The vnlaw of ane dome falsified before the Justitiar, is ten pounds. *Quon. Attach. c. 35. 3.*

All

All domes falsified before the Chalmerlaine, sould be presented before the King. *Iter. Camer. c. 34.*

Familie, or domestick serbands, sould reveale the trespas of their maister. *stat. wilh. c. 19. 9.*

Father may not agains the will of his eldest sonne, giue to his second sonne, gotten vpon ane woman before the mariage betwixt him and her, any part of his lands. *lib. 2. c. 18. c. 19. 3.*

The father may not dispone nor analie his lands, vpon his dead-bed, without consent of his heire, nor zet to his bastard. *lib. 2. c. 18. 7. c. 19. 5.*

Gif he haue landis conquest onely, he may giue ane part thereof, but not all, without consent of his heire. But gif he hes baith conquest, and heretage: he may giue his conquest, and ane part of his heretage to quhom he will. *lib. 2. c. 20.*

The father may revoke the donation made to his sonne, be reason of povertie. *stat. Rob. 3. c. 17. leg. burg. c. 11.*

The father haue and landis in free burgage, may giue als mekill thereof to his sonne, as his sonne may haue by right of succession. *lib. 2. c. 21.*

The paction made be the father oblissis the sonne. *lib. 1. c. 31.*

The father may not marie his dochter, being his heretrix, without consent of his overlord. *lib. 2. c. 48. 5.*

The father may constitute the sonne, his procuratour: and the sonne, the father. *lib. 3. c. 15. 9. vid. exheredation.*

Felon being convict offelonie, or confessand, or fugitiue for the samine, haldand landis immediatly of the King, all his gudes moueable, and vnmoueable perteines to the King. But gif he haldis of ane other overlord: his landis perteines to the King, be the space of ane zeire, and ane day. And thereafter induring the felons lifetime, they perteine to his overlord. *lib. 2. c. 55. lib. 4. c. 34. stat. 2. Rob. 1. c. 22. Quon. Attach. c. 18.*

Gif ane man is accused of felonie, and not convict: his wyfe tynes not her dowarie: nor his heire heretage. *Quon. Attach. c. 98.*

Exception of felonie (rebellion, or horning) objected agains the persouer, staves the breive of mortancestrie. *lib. 3. c. 29. 11.*

Ane felon restored be the King *ex gratia*, prejudices not the thrid person, possessor of the felons landis, be the Kings gift. *lib. 2. c. 56.*

The escheit of the felon, and fruttis of his landis, are raiknit amangis gudes moueable. *Quon. Attach. c. 18. 5. vid. crimes.*

Fermerer, or tenent to any man, doe and service to ane other man. *vid. service. vid. maister.*

Ane fermerer haue and landis set to him, vntill ane certaine terme: may sell his ferme before the terme, but not after the terme. *stat. Rob. 3. c. 37.*

Few of kirklands sould be pleyid before the Ecclesiasticall Judge. *lib. 3. c. 25.*

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Lands proven to be Ecclesiasticall in few, can never thereafter be temporall. *lib. 3. c. 34. 5.*

Gif ane man is ejected furth of his lands, he sall haue the Kings breive, for recovering thereof. *lib. 1. c. 6.*

Gif the vassall committis ane trespass agains his overlord: he tines his few halden of him. *lib. 2. c. 63. 4. vid. exheredation.*

He tines his fee and lands, quha committis purpresture contrare the King, or his overlord. *lib. 2. c. 74. 3. 10.*

Lands may be possessed as fee, or as wadset. *lib. 3. c. 35.*

Of ane man ejected furth of his lands. *leg. burg. c. 135. 10. 11. vid. tement.*

Fidelitie sould not be made by the husbands of the secund, or other dochters, to the husband of the eldest dochter, vntill the thrid heire. *lib. 2. c. 29.*

He quha maries ane widow, sould make fidelity to the heire of hir first husband. *lib. 2. c. 48. 10.*

Fidelitie sould be made to the overlord, be ane woman heretrix of warde-lands, and be hir heire. *lib. 2. c. 57. 8.*

Ane woman sould make fidelity, and not homage. *lib. 2. c. 60.*

Ane consecrate Bischop makes onely fidelity to the King. *lib. 2. c. 64.*

Fishing of Salmon is forbidden, from the day of the nativitie, or assumption of the virgine Marie, vntill Martimes. *Quon. Attach. c. 87.*

And siclike vpon ilk Saterdag, fra the evening prayers, vntill Monday after sunne rising. *stat. Alex. c. 16.* quhilk is called the Saterdayes floppe.

In watteris rinnand to the sea, cruwes and zares, sould be swa made, that little Salmon, the Fry, & Smolts of fish, may passevp and down, to the sea. *stat. 1. Rob. 1. c. 12.*

And for the famine cause, the streame of the water sould be free. *stat. Alex. c. 16.*

The paine of them quha takes salmon, fra the middis of Apprill, to the nativitie of S. Iohn the Baptist. *Quon. Attach. c. 87. stat. Rob. 3. c. 7.*

Fischeris bringand fisch to the Market, sould not be poyned. *leg. burg. c. 38.*

Fisch sould be fauld publickly in the Market. *leg. burg. c. 67.* to strangers, and others. *leg. burg. c. 72.*

At ane certaine time, and in ane certaine forme. *leg. burg. c. 79.*

Fischeris of Salmon, and of quheit fisch, may be accused before the Chalmerlane. *It. Camer. c. 16. c. 19.*

The forme of the cruwes of fisch. *stat. 1. Rob. 1. c. 12.*

Fleishers sould sell flesh publickly, and also serue the burgesis in grathing, and preparing their flesh. *leg. burg. c. 70.*

They sould buy, sla, and sell publickly their flesh, vpon day light. *leg. burg. c. 71.*

To strangers and all others. *leg. burg. c. 72.* but only to them quha payes for the flesh. *leg. burg. c. 130.*

Ane flescher may not be ane brother of gilde. *leg. burg. c. 99.*

In

In the buying of flesh, they sould not forestall the market. *stat. gild c. 40.*

They sould not buy woll, nor hides. *stat. gild. c. 20.*

Ane certaine price of flesh is set downe. *stat. gild. c. 24.*

Fleshers and apprisers of flesh, may be accused before the Chalmerlane. *Iter. Cam. c. 7. c. 8.*

Forest lawes. vid. after the lawes of King William.

Ane horse or cart carieand wood furth of the Forest, may be escheit.

Quon. Attach. c. 48. 7. mod. ten. cur. c. 61.

It is not lesune to hunt within the Kings Forest. *Mod. Ten. Cur. c. 52.*

Forisfamiliat the sonne is be the father, quhen the father giues to him ane certaine part of his heretage, and he is content therewith: swa that he can craue na mair. *lib. 2. c. 33. 8.*

Fornication committed be ane heretrice of wardelands, within time of warde, is ane just cause of exheredation. *lib. 2. c. 49. c. 55. 9.*

Forestallers sould not pas furth of the ports of the towne, to buy any thing before it be presented to the market. *leg. burg. c. 78.*

They may be accused before the Chalmerlaine. *Iter. Cam. c. 21. Stat. with. c. 35.*

Frutes extant, and dependand vpon the ground, are ane part of the ground, and therefore sould be restored with the ground. *lib. 1. c. 13. 4.*

Fugitiue theif, with the thing stollen thifteously, sould be judged, as ane proven theif. *lib. 4. c. 15. 4.*

Lands perteing to ane manslayer fugitiue, or denounced Rebell. *vid. felon. vid. escheit.*

Gif the servant, or bondman is fugitiue, his maister may draw him by the nose, back againe in servitude. *Quon. Attach. c. 56. 7.*

Resetter of ane theif fugitiue. *vid. resetteris.*

He committis theft, quha resettis the wife with her husbands gudes, fugitiue fra her husband, *Quon. Attach. c. 85.*

He is punissed, quha deteines, and with haldis ane servand fugitiue fra his Maister. *stat. with. c. 8.*

Of them quha are fugitiue to the girth. *stat. Alex. c. 6.*

Bondmen fugitiue fra their Maisters, may not be taken or apprehended in publick faires. *leg. burg. c. 93.*

Ane man being fugitiue fra the Law, and can not be personally apprehended: may be attached and arrested in his gudes. *Quon. Attach. c. 3. in. fin. mod. ten. cur. c. 4.*

Ane malefactour being fugitiue, may be denounced rebell. *stat. Rob. 2. c. 15.*

Fule naturall, and all his landis are in the Kings wairde and keeping. *lib. 2. c. 46.*

Furious man continually may make na paction. *lib. 1. c. 30.*

He may not be ane arbiter. *lib. 2. c. 4. 3.*

All things done be him, the time of the furie is null. *Quon. Attach. c. 29.*

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Ane furious man should be kept by his friends, or imprisoned be the Justiciar, or Schiref. *Stat. 2. Rob. 9. c. 24.*
 Fire or wilfull burning, is ane of the foure poynts of the crowne. *lib. 1. c. 15. Malc. 2. c. 11.*

Gif ane mans cornis are brunt with fire, he quha kindled the fire, payes the skaith. *Stat. 2. Rob. 1. c. 29.*

Gif fire burnes any mans house, and also his neighbours house, na paine followes thereupon. *leg. burg. c. 54. vid. kill.*

Purgation by fire and water. *vid. Purgation.*

G.



GALNES (ane affithment) for ane man slain be ane horseman riddand vpon horse. *lib. 4. c. 24.*

Galloway men hes their awin proper lawes. *Stat. Alex. c. 2. Stat. 2. Rob. 1. c. 36.*

They being convict of breaking of the Kings protection, payes to the King twenty twa kye, and three horse. And gif they renunce not their awen Lawes, it fall not be lesome to them to vse the benefite of ane Assise. *Quon. Attach. c. 72. c. 73.*

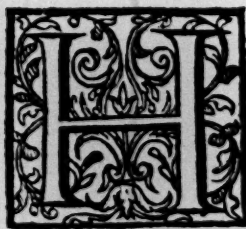
Gauger (quha hes powar anent weights and measures) may be accused before the Chalmerlane. *It. r. Camer. c. 14.*

Gilde Lawes. *vid. statutes of the gilde.*

Gulde (quhilk is ane pernicious herbe, or rather ane wide) being in the lands pertaining to ane farmorer, and he will not clenge the land thereof, he may be punissed, as he quha convoyes ane hoast of enemies in his maisters land. And ilk bondman haueand guild within the land, fall pay to his maister, ane Mutton for ilk stocke thereof. *Stat. Alex. c. 18.*

Gyrth (or sanctuarie) sould be ane sure refuge to all men. *Stat. Wilh. c. 5.*
 Of the repentance, and releiue of them, quha flies to the girth. *Stat. Alex. c. 6. Stat. Rob. 2. c. 9.*

H.



HAIRES sould not be slaine, in the time of snaw. *Stat. Rob. 3. c. 10.*

Vpon Haly day, na summons sould be executed. *lib. 1. c. 6 15.*

And siclike arbiters may not pronounce their decreit. *lib. 2. c. 7. 4.*

Haim suken is quhen ane mans proper house is assalzeit, quherein hee dwellis, rises, and lyes. *lib. 4. c. 9.*

Anent this crime, the samine forme of proces sould be obserued, as is vled in revising of women. *lib. 4. c. 9. 3.*

This crime is prescribed, and may not be persewed, after ane day and

and ane night. *lib. 4. c. 10. 3.*

Heretage perteing to ane man, quha is deceased, naturallie descends, *lib. 2. c. 25. vid. sonne. vid. dochter. vid. nephwou. vid. Neice.*

They quha comes of the right line, falzeing: the heretage perteines to them, quha are of the side line. *lib. 2. c. 34. vid. brother. vid. sister.*

The part of the heretage perteing to ane brother, or to ane sister de-
ceissand without heires, is devided amongs the rest being leivand. *lib. 2. c. 25. 4.*

Alienation of heretage. *vid. alienation.*

Heretage may be tynt, and losed many wayes. *vid. exheredation.*

Hering brought be sea and in ship, may be fauld within the ship. *leg. burg. c. 10.*

Hering bocht be ane Gild brother, sould be devided amongs the gild
brither, quha ware present at the time of the buying *stat. gild. c. 37.*

Herrezelde, or the best aucht, sould be given to the maister, be the hus-
band man, quha haueand the aucht part of ane dawach of land dwels
and dies vpon his land. *Quon. Attach. c. 23.*

Herrezeld sould not be taken within burgh. *leg. burgh. c. 19.*

Hoist. *vid. weirfare.*

Homage sould be made be ane free man, male, minor, or major, clerk, or
laick, and be biishops elected. *lib. 2. c. 64.*

Quhen mae dochters nor ane succedes to their father, the husband
of the eldest dochter sould make homage to the overlord. *lib. 2. c. 29.*

And the husbands of the zounger dochter, sould make na homage
to the husband of the eldest dochter, vntill the thrid heire. *lib. 2. c. 57.*

The eldest sonne, may make homage for his fathers heretage, albeit
his father is leivand. *lib. 2. c. 33. 10.*

The husband of ane woman being heretrix of lands, sould make ho-
mage. *lib. 2. c. 45. 6.*

Bot the husband mariand ane widow, makes na homage. *lib. 2. c. 48.*
10.

And he quha posselles lands be the curtesie of Scotland, sould make na
homage. *lib. 2. c. 58. 4. 5.*

Gif lands are given in free maritage, or in name of tocher, reservand
service to the giver, the husband fall make the service: bot fall make
na homage vntill his thrid heire. *lib. 2. c. 57. 3.*

Homage sould be made to the overlord, male, or female, minor, or
major, clerk, or laick. *lib. 2. c. 66.*

And gif there be mae overlords, nor ane, homage sould be made to
them all, bot lige homage sould be made to the King. *lib. 2. c. 61.*

Homage is made to the King onlie, for his maintenance. *lib. 2. c. 65.*

The forme of homage in the quhilk, the elder overlord, and the King
is excepted. *lib. 2. c. 62.*

The homage made to ane heretrix before hir mariage: salbe renew-
ed to hir husband after hir mariage. *lib. 2. c. 66.*

The overlord sould receaue his vassalls homage, before he craue any
service, or releiue fra him. *lib. 2. c. 60.*

*Heretage disposed by
a man to ane who
does not take full part
in the Dispersal goes
to the heir as if no Dispersal
had been made B. 2. 184*

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And the heire shoulde offer his homage to his overlord, before he recover his heretage fra him. *lib. 2. c. 71.*

The overlord for just causes, may delay or refuse the homage. *lib. 2. c. 69.*

Homage may be made to ane woman: bot she shoulde make na homage to ane other. *lib. 2. c. 60.*

Homage shoulde be made for lands, free tenements, service, zearelie rents in siluer, or for any mans maintenance. *lib. 2. c. 57. 2. 20. c. 65. 3.*

Gif controversie is betwixt the Lord and the vassall anent homage, the samine perteines to the Schiref. *lib. 1. c. 3. 5.*

Hoy's shoulde be raised vpon the committer of murther. *Misc. 2. c. 15.*

And vpon him quha deforces poynds, or withholds them: and takes them violentlie without licence of the Lord of the land. *stat. 2. Rob. 1. c. 21. 11.*

And vpon him, quha within the Kings forest, takes ane wyld beast. *leg. forest. c. 15. 4. c. 22.* And vpon ane manslayer. *lib. 4. c. 5.* And vpon ane theif, quha is fugitiue. *lib. 4. c. 15.* And vpon him, quha deforces the Kings officers. *stat. wilh. c. 4. vid. clamour.*

Hospitalitie, shoulde be kept be all men, for cause of charitie, without any violence. *stat. David. 2. c. 11. stat. wilh. c. 30.*

And without damage or oppression. *stat. wilh. c. 38.*

Hunting is permitted in all places, except in forests. *mod. ten. cur. c. 52.*

And it is not lesome to hunt within the Kings forests. *leg. Forest. c. 17. vid. haies.*

Husband shoulde indow his wife with ane terce: he is maister of all his wifes gudes: and may intromet with the frutes of his wifes dowarie. *lib. 2. c. 16. 2. 12. 13.*

The husband of the eldest dochter shoulde make homage. *vid. homage.*

The husband may not analie his wifes heretage, without hir consent.

Quon. Attach. c. 20. nor after hir decease, without consent of hir heire. *lib. 2. c. 29.* because he hes bot the custodie, and keeping of that heretage. *lib. 2. c. 29. Quon. Attach. c. 20.*

The husband does weill, and godlie, quhen he permits his wife to make ane testament. *lib. 2. c. 36. 8.*

The minoritie of the husband, excuses the wife, that she fall not be compelled to pley anent hir heretage. *Quon. Attach. c. 38.*

The husband may make answer for his wife, in judgement. *leg. burg. c. 33.*

Bot gif the wife answer in judgement, and find any pledge, the husband is not oblissed therefore. *leg. burg. c. 131.*

The husband shoulde not consent to his wifes trespass committed be hir. Nor fall not be compelled to answer for hir: without he hes consented to hir doing. *stat. wilh. c. 19.*

The husband may moderatly correct his wife. *stat. David. 2. c. 16.* As ane barne within age. *leg. burg. c. 131. vid. wife.*

Husbandman, rusticus, may be admitted to accuse any man for treason. *lib.*

lib. 4. c. 2. 3.

He may decline, or refuse battell be reason of age, or of ane hurt, or manzie: bot is compelled to purge him, be hot water. *lib. 4. c. 3. 4.*

Ane husband man being made burges in ane burgh, is onlie burges in that burgh. *leg. burg. c. 13.*

Husbandrie sould be vsed be all men dwelland allandward, servants, and others. *stat. Alex. c. 1.*

Horse alledged to be stollen, in that case, delay of time sould be given to the possessour, to call his warant. And gif ane man of gude name and fame, borrow ane horse, to ride to the Kings hoist, sould restore the horse, quhen he returnes, and not before. *lib. 4. c. 18.*

Ane man rydand vpon horse, sould keipe the forther feet of the horse, that they doe na skaith: and not the hinder feet. *lib. 4. c. 24.*

Ane horse transportand wod, furth of the Kings forest, is escheit to the King. *Quon. Attach. c. 48. 7. mod. ten. cur. c. 62.*

Ane horse cariad victuall, fra the richt miln, to ane other miln, is escheit to the Lord of the miln. *stat. wilh. c. 9. 8.*

Horse sould not be halden be oppression of any man. *stat. David. 2. c. 43.*

Ane vnrewlie, or head strong horse, cariad ane man over ane cleuch, craig, or in water, quhere the man dies, or is drowned, sould be escheit. *Quon. Attach. c. 10. mod. ten. cur. c. 62.*

Gilde brether sould haue ane horse. *stat. gild. c. 18.*

Horse sould not be caried furth of the Realme. *stat. David. 2. c. 49.*

Hides may not be bocht be stranger merchants: bot onlie be burgeses. *leg. burg. c. 18.*

And likewise they sould be sauld to burgeses. *stat. wilh. c. 36.*

Suters may buy na hydes to be barked: bot sic, quhereof the lugges and hornes are of ane length. *leg. burg. c. 98.*

They sould not be bocht quietlie in the venellis of the towns. *stat. G. III. c. 30.* bot publicklye in the market: and custome sould be payed for them *stat. gild. c. 41.*

Lot, cut, and cavill, hes place in ane halfdacker of hides. *stat. gild. c. 43.*

I.



INFAME persones are all they quha are convicted of perjurie, vpon ane Affise. *lib. 1. c. 14. 5.*

And siclike all heretickes, theifes, and sundrie other malefactours: and therefore may not accuse any man in judgement, nor persew, nor be witnessse. *stat.*

wilh. c. 7.

He is infame, quha reveales the secret of the gilde. *stat. gild. c. 35.*

Injurie done be ane within burgh, is punissed be ane vnlaw: and be payment of all the damage and skaith, taxed, and modified vpon him. *leg. burg. c. 103.*

Sundrie kindes of injurie, and paine thereof. *lib. 4. c. 39. c. 40.*

Intestat, gif ane man deceis intestat, all his moueable gudes pertienes to his

The Table.

his Lord. *lib. 2. c. 53. Quon. Attach. c. 48. 15.*

His gudes sould be disponed be his friends, the kirk, and the ordinar Bishop; and the Bishop fall answer to the creditours of the defunct, and pay his debts to them. *stat. wilh. c. 22.*

And the like is to be said, quhen strangers dies intestate within this Realme. *stat. wilh. c. 30.*

Judge sould try the truth of the cause. *lib. 2. c. 2.*

The office of ane Judge. *stat. wilh. c. 25.*

All men sould persew their actions before ane Judge. *stat. 1. Rob. 1. c. 2.*

stat. 2. Rob. 1. c. 15. leg. burg. c. 101.

In all judgements these things are requisite: 1. ane lawfull day: 2. ane lawfull place: 3. ane lawfull court: 4. ane lawfull Judge: 5. ane lawfull forme of proces: 6. ane lawfull forme of sentence. *Quon. Attach. c. 60.*

Ane Judge sould not take gifts or buds; he sould feare God: he sould doe Iustice equally to all men: he sould take and receaue pledges: he sould giue the copie of the proces to all men, quha seekes the samine, and defend all men fra all force and violence. *stat. 1. Rob. 1. c. 22. stat. wilh. c. 25. mod. ten. cur. c. 37.*

He quha is suspect to either of the parties, sould not be Iudge. *Quon. Attach. c. 13. mod. ten. cur. c. 33.*

Bot he may be removed be the partie. *Quon. Attach. c. 16. mod. ten. cur. c. 33.*

Gif mae Iudges nor ane are made and constitute conjunctly and severally any ane of them, may pronounce sentence. *lib. 2. c. 9. 3.*

Gif ane man is decerned to pay ane summe as debt, the Iudge may compell him to pay the samine within fiftene dayes: and to find pledges to that effect. *Quon. Attach. c. 7. mod. ten. cur. c. 14.*

The Iudge may continew the court and proces. *Quon. Attach. c. 14. c. 31. mod. ten. cur. c. 34. leg. burg. c. 51.* And may giue decreit agains him, quha is absent. *stat. 1. Rob. 1. c. 29.*

The Iudge sould informe the soytours, being ignorant of the law. *Quon. Attach. c. 16. 5. mod. ten. cur. c. 36. c. 37.*

Dome and decreit sould be pronounced be the soytours in presence of the Iudge. *Quon. Attach. c. 66.*

Na Iudge sould obey the Kings vnlawfull commands. *stat. David. 2. c. 18.*

The Iudges of ilk Province or Schirefdome, sould follow the King sa lang as he is within their Province. *stat. wilh. c. 3.*

Iudges after that their office is expired, sould remaine in the place quhere they were Iudges, be the space of fourtie dayes. *Quon. Attach. c. 101.*

Iudges sould execute letters of caption direct to them, or to their officalls. *stat. Rob. 3. c. 6.*

He quha does injurie to ane Iudge, sould make ane mends to him. *Quon. Attach. c. 40. leg. burg. c. 104.*

Ane Iudge quha is convict three times to haue done wrang, tynes his office,

office, and is infame. *stat. 2. Rob. 1. c. 28.*

Ilk man sould be judged criminall be his Pieres. *vid. crimes.*

Iudgement be water, and fire. *stat. Alex. c. 7.*

Falsing of dome, or judgement. *vid. falsing of domes.*

Iustice may be perverted foure maner of wayes, for feare, for avarice, for hatreit, or for favour. *mod. ten. cur. c. 37.*

Great men sould not stay justice, nor take buddis for that cause. *stat. wilh. c. 7.*

Justice sould be done equallie to pure men, and to ritch men. *stat. wilh. c. 38. stat. 1. Rob. 1. c. 2.*

Na man sould doe Iustice to him selfe. *stat. 2. Rob. 1. c. 15. stat. Rob. 3. c. 15. leg. burg. c. 101.*

Justice sould be summarly done, to kirkmen, widowes, pupillis, and to the fatherlesse. *stat. Rob. 3. c. 5.*

Iustitiar generall hes for his fie, ilk day of the Justice heire, five pounds. *Malc. 2. c. 3.*

And his Clerk receaves for ilk man anunciat, or that comes in will, twa shillings. And for ilk man that is clenged, foure pennies. *Malc. 2. c. 3.*

The forme of the criminall processe before the Justitiar. *mod. ten. cur. c. 74.*

The Justitiar sould hald his court twice in the zeire. *stat. Rob. 3. c. 30.* and there all free-halders sould compeir. *Quon. Attach. c. 79.*

As Bishops, Abbats, Earles, Barones, Knights. *stat. wilh. c. 3.*

Of sick things as stayes the Justitiars aire, or court. *stat. David. 2. c. 24.*

The Justitiars second court, is peremptour. *stat. Rob. 3. c. 31.*

The extracts of the Justice aire, sould be inbrought be the Schiref. *stat. Rob. 3. c. 27.*

The vnlaw in the Justitiar aire. *Malc. 2. c. 8. Quon. Attach. c. 35.*

The Iustitiar sould cognosse vpon theift, and slauchter, be way of dittay. *lib. 1. c. 1. 7.*

And of the breaking off the Kings peace. *Quon. Attach. c. 34.*

Of Natiues, and bondmen, their estate and libertie. *Quon. Attach. c. 56.*

And of the pleyes of the crowne. *lib. 4. c. 6. c. 8. vid. pleyes of the crowne.*

Treason and lese majestie, pertienes to the jurisdiction of the Iustitiar. *lib. 1. c. 1. 5. lib. 4. c. 1. 14.*

And slaughter committed privatly, otherwaies called murther: and also committed publickly. *lib. 1. c. 1. 7. lib. 4. c. 5.*

And the crime called haym-sucken. *lib. 4. c. 9.*

And the crime of falsset. *lib. 4. c. 13.*

And thift, and stouth. *c. 14. c. 15.*

And generally, all crimes quhilkis are punissed be death, or tynsell of members, pertienes to the jurisdiction of the Iustitiar. *lib. 1. c. 1. 5.*

The Iustitiar sould take vp dittay vpon malefactours. *stat. Alex. c. 2.*

He sould punish all faults and wrongis done in passing, remaining, & returning fra the Kings hoist. *stat. 1. Rob. 1. c. 4.*

He

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He sould punish them, quha fishes salmon in forbidden time. *stat. 1.*

Rob. 1. c. 12. 5.

He sould imprison furious men. *stat. 2. Rob. 1. c. 24.*

He sould take to the Kings wark, men found without ane maister. *stat. David. 2. c. 3.*

To his jurisdiction perteines the brevis of recognitions of mortance-
strie, of Novell dissaifine, of purpresture, of distres for debts. *lib. 1. c. 5.*

lib. 2. c. 74. Quon. Attach. c. 52. c. 53. c. 54. lib. 3. c. 28.

K.



KATHERANES, that is, forneris, sould be taken, and
may be lesomly flaine. *stat. Rob. 2. c. 12. stat. Rob. 3. c. 44.*

Kelching, Kelten (is ane penaltie enjoyned to ane man,
quha grantis, and confesses his fault, or offence, before
the King, or any other his maister) *lib. 4. c. 38.*

Kill, torralsum, gif it is freely lent to any man, and is brunt, he quha bor-
rowed it, fall pay the skaith: bot gif it is set to ane man for hire or pro-
fite, and is brunt, he to quhom it is set, fall pay na skaith. *leg. burg. c. 54.*

King within his Realme, hes na pierre, far les ane superiour. *lib. 2. c. 44.*

And he hes na superiour, bot God Creator of heaven and earth, as is
written in the Preface of the first buke.

King Malcolme the secund, gaue all his landis to his men. *Malc. 2. c. 1.*

The Kings domestick servandis hes fees. *Malc. 2. c. 5.*

They sould not be effonzeid be reason of the Kings service. *lib. 1. c. 8.*
15.

The Kings licence is required in the manu-mission of servants. *lib. 2. c.*
13. 12. c. 14. 5.

The Kings confirmation is necessare in the alienation of Kirk lands.
lib. 2. c. 23.

The King sould be preferred to all other superiours anent the warde,
and mariage of his vassallis heires, albeit they be elder then he. *lib. 2. c.*
44. 3. 4.

The King sould haue the custodie of naturall fooles: and of their lands.
lib. 2. c. 46.

The King succedes to ane bastard, not haue and ane heire of his awne
body. *lib. 2. c. 52.*

The Kings Court regards not pactions privatly made anent waddis.
lib. 3. c. 4.

The Kings Counsalours only, sould be present in his counsaile. *stat.*
David. 2. c. 47. stat. Rob. 2. c. 1. lib. 3. c. 14. 6.

Prescription hes na course agains the King, and his servants. *lib. 2. c.*
12. 16.

The Kings court sould giue advice, and counsaile to the barons sei-
kand the samine, anent actions dependand in their courts. *lib. 3. c.*
23. 6.

The recognition quhither lands are kirk-lands, or temporall, is trea-
ted, and determed in the Kings court. *lib. 3. c. 25. 3.*

Thefouris

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Thefouris or huirds perteines to the King. *Quon. Attach. c. 48. 5. mod. ten. cur. c. 60.*

The King is preferred to all other creditours in payment of his debts. *stat. Wilh. c. 21.*

The King sould warrand lands given be him be certaine methis and marchis. *Quon. Attach. c. 78. 3.*

The King may hald in his hands, his vassallis lands, vntill he be satisfied of the releife, and other services. *stat. 2. Rob. 1. c. 7.*

The Kings gate, or way, sould containe fourteene foote in breid: and the vse thereof sould be common and free to all men. *stat. David. 2. c. 26. 4.*

The King may not analie the superioritie of his vassall, without his consent. *stat. Rob. 3. c. 4.*

To the King perteines the non entres of lands halden of him in chiefe. *stat. Rob. 3. c. 19. c. 38.*

All gudes and geir of ane felon, or rebell, fugitiue, with his lands halden of the King, perteines to the King without all distinction. But gif the lands are halden of ane other superiour, the samine perteines to the King be the space of ane zeire, & ane day: and thereafter to the overlord, because the Lyfrent of the vassall perteines to the immediate overlord. *lib. 2. c. 55. 11. Quon. Attach. c. 18. mod. ten. cur. c. 41.*

The King may restore *ex gratia*, ane felon: but that restitution prejudges not them quha hes right to the felones lands. *lib. 2. c. 56.*

The King may giue ane remission for falsset. *lib. 4. c. 13. 7.*

And also for slauchter. *lib. 4. c. 17.*

Ane manslayer may be releived vpon pledges, gif the King please. *lib. 4. c. 5.*

The King may accuse ane malefactor, albeit he be assolzeid, at the instance of the party. *lib. c. c. 28. mod. ten. cur. c. 81.*

All things haueand na Maister, perteines as escheit to the King. *Quon. Attach. c. 48. 4. mod. ten. cur. c. 60.*

The parties may not agree anent slauchter, or theift, without the Kings licence. *Quon. Attach. c. 77.*

The gudes of ane convict theife, perteines to his Lord haueand power of escheit, otherwaies to the King. *Quon. Attach. c. 12. 5. mod. ten. cur. c. 32.*

Replegiation hes na place, in crimes committed agains the King. *Quon. Attach. c. 39. 4.*

The king sould punish his officiaris doeand wrang. *stat. Rob. 2. c. 13. stat. Robert. 3. c. 41.*

And also he may punish Lords of Regalities. *stat. Rob. 2. c. 14.*

He sould be punished, quha invents rumours, and sawis discord betwixt the King, and his people. *stat. 1. Rob. 1. c. 21.*

Gudes and geir sould not be transported furth of the Realme, without the Kings licence. *stat. 1. Rob. 1. c. 24.*

Men found without ane Maister, sould be keeped by the Justitiar to the Kings wark. *stat. David. 2. c. 3.*

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The King may punish malefactours found within forests pertaining to Baronis: albeit the Baronis conceill their trespassse, or will not accuse them. *leg. forest. c. 21.*

The Kings provifouris may be accused before the Chalmerlaine. *Iter. Camer. c. 17.*

The vnlawes before the Chalmerlane, may not be modified without the Kings consent. *Iter. Camer. c. 32.*

To the King shuld be presented the names of all forestallers within burgh: all escheittis, all domes falsified, and the names of all them, quha are come in the Kings will. *Iter. Camer. c. 31. c. 34.*

The noble men shuld helpe the King in doing Justice. *stat. with. c. 7.*

Na man shuld first complaine to the King, anent any pley or wrang, except he first complaine to the Schiref or his Maister. *stat. David. 2. c. 8.*

Quha hes waged, and enacted battell betwixt them, may not bere concealed without the Kings licence. *lib. 4. c. 1. 15.*

Quhen the King comes to any Province or Schriefdome, all the Judges thereof shuld repaire to him. *stat. with. c. 3.*

The King oblissis him in the word of ane Prince, to execute the lawes. *stat. Rob. 2. c. 17.*

Kings mercie, is not extended to the tynsell of landis, and heretage. *lib. 2. c. 74. lib. 3. c. 1. 18.*

In the Kings mercie is the vassall quha persewes his Maister in Judgement, and preues na thing. *lib. 1. c. 26. 5.*

He quha keepes not finall concorde, or decreit of arbitreis. *lib. 1. c. 27. 7.*

He quha is pledge for ane man, that makes default, and is contumax. *lib. 3. c. 1. 18.*

He quha falsly denies his awne chartour. *lib. 3. c. 8. 9.*

The Lord quhais court is convict of wrangous Judgement. *lib. 3. c. 24. 8.*

The persewer and defender being baith contumaces, and absent are in the Kings mercie. *lib. 1. c. 8. 35.*

He quha callis ane warrant in novell dissaisine: as also he quha is convict of novell dissaisine, ejection, or spulzie. *lib. 3. c. 36. 4. stat. Alex. c. 8.*

He quha appeales ane other to battell for treason, and is convict. *lib. 4. c. 1. 16.*

He is alswa in the Kings mercie, quha within ane night, and ane day complaines not of Reif, hayin-sukin, revising of women. *lib. 4. c. 10.*

And he quha breakes the Kings protection. *Quon. Attach. c. 54. 5.*

He quha in time of singular battell, puttis to his hand, and helps either of the parties. *Quon. Attach. c. 74.*

Ane executour of summonis, quha is either negligent, or defectiue. *lib. 1. c. 6. 17.*

He quha deteines ane other mans native servant fra his Maister. *stat. with.*

with. c. 8.

He quha for profite, or gifts, repledges ane man fra ane other mans court, to his awin court. *stat. Alex. c. 4. 2.*

He quha accuses ane other of novell dissaisine, and proves not. *stat. Alex. c. 8. 5.*

He quha in ane criminall cause, findes ane pledge to persew, and persewes not. Or he quha can not finde ane pledge to persew. And he quha is fieled and convict. *stat. Alex. c. 10.*

The pledge for the defender, not comperand at the day of comperance. *lib. 1. c. 17. 16.*

He quha complains that he is deforced in poynding, and proves not. *stat. 2. Rob. 1. c. 21. 4.*

Quha dispossesses ane widow of hir dowarie. *lib. 2. c. 36. 8.*

He quha takes ane wilde beast in the Kings forest, without licence. *leg. forest. c. 15. 4.*

The prowest of burghis quha punisses not Baxsters, and Browsteris. *leg. burg. c. 21. 4.*

The persewer, and defender not comperand in the action touching ane man quha is dustiefute. *leg. burg. c. 140.*

Burgeses convict of false weichts, and measures. *leg. burg. c. 74.*

The names of all them quha in the Chalmerlane aire comes in the Kings will and mercie, sould be presented to the King. *Iter. Camer. c. 34.*

And he quha defraudis the King of his custome, is in his mercie. *leg. burg. c. 142.*

Kings peace is violate and broken be any transgression, as be striking, beating, or wounding of any man. *Misc. 2. c. 16.*

The crime of the breaking of the Kings peace, perteines to the Justiciar. *lib. 1. c. 1. 5.*

Gif ane man is accused be ane certaine accusar of any crime: and mair over of breaking of the Kings peace: that accusation perteines to the Schiref. *lib. 1. c. 3. 7. 8.*

Peace sould be keiped amangis the noble men of the Realme. *stat. 1. Rob. 1. c. 20. stat. David. 2. c. 31.*

Pilgrameris, merchandis, ministers of the kirk, pure folk, and feabill or weake persons, are vnder the Kings peace, and his speciall protection. *stat. David. 2. c. 12. c. 13.*

Kings protection, the breive, and the forme of proces of the breaking thereof, the pane quhereof, is the Kings mercy, and payment of all damage and skaithes, to the party skathed. *Quon. Attach. c. 54.*

But the indwellars in Galloway convict of this crime, payes to the King twenty twa kye, and three geldid hors. *Quon. Attach. c. 73.*

Burgesis are in the Kings sure and firme peace. *leg. burg. c. 139. vid. Kings peace.*

Kirk, the richts and liberties thereof sould be mainteined and defended. *stat. 1. Rob. 1. c. 1. stat. with. c. 32. stat. David. 2. c. 43.*

The Ministers of the kirk, sould live faithfull, & be faithfull to the king. *stat. P*

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stat. David. 2. c. 12. 4.

And live honestly vpon their awne rents. *stat. Wilh. c. 34.*

Justice shuld be done summarly, and without finding of pledges to kirkmen. *stat. Rob. 3. c. 5.*

The Ecclesiasticall Iudge cognoscis vpon testaments, dowaries, ad-
vocation of kirkis. *lib. 1. c. 2.*

And anent ane bondman promoved to haly orders. *lib. 2. c. 13.*

And of testaments, and legacies left thereintill. *lib. 2. c. 38. c. 39.*

And of causes matrimoniall: and also of bastardie. *lib. 2. c. 50.*

And likewise, quhere question is, gif ane man is borne before the ma-
riage betwixt his parents, or thereafter. *lib. 2. c. 51.*

The Ecclesiasticall Iudge cognoscis, vpon lands given in name of to-
cher-gude. *lib. 2. c. 59.*

And anent the violation or breaking of faith or promise. *lib. 3. c. 7.*

Controversie anent lands given in name of almous, perteines to the
Ecclesiasticall jurisdiction. *lib. 3. c. 25.*

Kirk-men may cognose vpon criminall causes, gif they be infest with
sic power. *Quon. Attach. c. 43.*

Courts shuld not be halden within kirk or haly places. *Quon. Attach.*
86.

The Schiref shuld be present in Ecclesiastical courts: otherwaies they
shuld not be halden. *stat. Alex. c. 14.*

Gif lands are proven to be kirk-lands, they may not be temporall
lands thereafter. *lib. 3. c. 34. 5.*

Lands halden in fewferme of the kirk, may be tynt, or forsalded,
for none payment of the dewtie be the space of twa zieres. *lib. 3. c.*
14. 5.

Kirk-lands may not be analeid, without the Kings confirmation. *lib.*
2. c. 23.

All men in their testament may leave legacie to the kirk. *lib. 2. c. 36.*

The ordinaire Bisshop, *jure devoluto*, (*that is, be richt devolvid and com-
petent to him be reason of the negligence of the richt patrone*) may present
ane person to ane kirk vacand. *lib. 1. c. 2. 3.*

Kirk-men may not be compelled to ficht the singular bartell. *stat. Alex.*
c. 5.

Knichts, milites, quha halds their lands of Barons (*Free-halders*) vses in
their courts, the lawes quhilkis are vsed be Barons, and the halfe of
their vnlaw. *Malc. 2. c. 8. 7.*

Ane Knight shuld be judged be Knichts, and be frie-halders. *stat. Alex.*
c. 2. 7.

L.



AIST HEIRE. vid. heire.

Lands. vid. tenement. vid. alienation.

Legitimation of bairns, be the lawes of this Realme is not
be mariage betwixt the parents of the bairne borne
after the mariage. *lib. 2. c. 51. 2. 3.*

Libell

Libell or clame, the forme thereof in the breive of richt, be the quhilk lands are claimed heretablie. *lib. 1. c. 10.*

And of annuell rent claimed within burgh. *Quon. Attach. c. 57. 7.*

And in petition of ane womans dowarie, or terce. *lib. 2. c. 16. 21.*

The libell or clame is not irrelevant, albeit it conteine mair nor the breive dois conteine. And gif there be les in it nor in the breive, it is relevant: because the superplus contained in the breive, may be passed fra, and deleit. *lib. 2. c. 26.*

In the clame of debt, sould be contained and named, the quantitie of the debt: the cause for the quhilk it is awand: the day of payment, & the zeire. *stat. 1. Rob. 1. c. 16.*

In the libell of transgressions, sould be named the day, place, & zeir. *Quon. Attach. c. 50.*

And the cause of the complaint, and the damage, and skaith liquidat to ane certaine quantity. *Quon. Attach. c. 80. mod. ten. cur. 20.*

The forme of accusation, and the answer of him quha is accused. *mod. ten. cur. c. 78. c. 79.*

He quha denies the clame before ane Judge, may not be repledged fra him to ane other Judge. *Quon. Attach. c. 8.*

The forme of the libell, or clame in actions of cattell, and of injuries. *stat. 1. Rob. 1. c. 14.*

And in actions of breaking of promise, or cōvention. *stat. 1. Rob. 1. c. 15.*

Libertie, naturally all men are frie: and ane frie man is opposed to ane bondman: and liberty to servitude. *lib. 2. c. 14.*

Libertines are they, quha sometime were bondmen, and now are frie. *lib. 2. c. 14. 3.*

Liberty may be recovered, and obtained many wayes. *lib. 2. c. 12.*

But it may never be recovered be him, quha willingly fauld his libertie. *Quon. Attach. c. 70.*

Probation of libertie. *vid. probation.*

Litster may not be ane brother of the Gilde. *leg. burg. c. 99.*

Lipper-folk sould be susteined vpon their awne gudes: or be the almous of the burgh: they sould not enter within the burgh: nor sould not be receaved in harberie. *stat. gild. c. 15.*

Location (*setting for hyre and profite*) he quha settis and receaves the hyre, sould give and deliver the thing quhilk is set, to the vse, for the quhilk it is set. And he to quhom the set is made, sould pay the hire. *lib. 3. c. 14.*

Location and conduction of kirk-lands. *vid. kirk.*

Lott, cutt, and cavill, ilk man hes with ane burges, in time of ane publick faire. *leg. burg. c. 59.*

And it hes place in hydes, skinnes, and wooll. *stat. Gild. c. 43.*

Lunatick men, quhen the furie staves, may make pactions and contract with any man. *lib. 1. c. 30. Quon. Attach. c. 29.*

Lyners (*lineatores*) within burgh sould be chosen be the prowest and communitie. *leg. burg. c. 102.*

Lands already ains lyned, sould not be lyned over againe. *leg. burg. c. 123.*

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M.



MANGZIE, or hurt in the body, is ane excuse to him quha is swa hurt, that he sould not be compelled to fight the singular battell. *lib.4.c.3.*

Ane mangzie, vice, or fault in the thing quhilk is bocht, and fauld, dissolues the contract of buying and

telling. *lib.3.c.10.8.*

Malefactor being principall, sould be first accused before him quha is commander to convict the crime, or is resetter of him quha hes committed it. *lib.4.c.26.*

Ilk baron sould purge and clenge his Baronie of malefactours, thrice in the zeire. *Quon. Attach. c.41. mod. ten. cur. c.71.*

Ane malefactor being apprehended, and kieped attour ane day, and ane night, may be replledged be his maister. *Quon. Attach. c.39.*

Malefactours sould not be reset, nor maintained be great men. *Male. 2.c.14. stat. wilh. c.7.*

Dittay sould be taken vp, vpon all malefactours, that they may be tried by ane Assise. *stat. Alex. c.2.*

Ane malefactor euill demid and bruted, be the fame of ane, twa, or three baronies, and not have and ane Maister, may be punished to the death. *stat. David. 2.c.17.4. vid. crimes.*

Malefactours within Ryaltie and Regalitie, are punished, speciallie being fugitiue. *stat. Rob. 2.c.15.c.16. stat. Rob. 3.c.45. and 1.*

Maister, or Lord, tynes the service of his servant, or bondman, in the same maner and way, that the servant recovers his liberty. *lib.2.c.12.*

Gif the maister gives to his servant ane deforme wound in the face, he fall pay to him the fourt part of his price, and also the bludewit. *stat. wilh. c.20.*

Gif any man wants ane maister, he may be put to wark in the Kings wark. *stat. David. 2.c.3.*

The Maister or Lord, may not recognose the lands for the byrunis of his fermes: but he may do it, for service aucht to him. *Quon. Attach. c.46.c.47. mod. ten. cur. c.51.*

The Maister may preive na thing be witnes of his awne court, contrare his tenent. *Quon. Attach. c.24. mod. ten. cur. c.45.*

The Maister is not hurt nor prejudged be any service done be his tenent, to ane other man. *Quon. Attach. c.44.*

Ilk man gif he pleis may leave in his testament his best aucht, to his Maister. *vid. servant.*

Manumission is the gift, and grant of liberty given be the Maister, to the servant freely, or for the servants gude merites, or for profite or price receaved fra ane thrid persone. *lib.2.c.14.c.12.*

Marshall of Scotland, hes for his fie ten pundis. And all transgressions done within twa lieggis to the King, sould be punished be him, & the Constable. *Mal. 2.c.6.*

Mariage is contracted be consent of parties. *Quon. Attach. c.92.* be men after the fourtene zeire of their age. *vid. age.*

Mariage

Mariage may be contracted betwixt ane woman ravished, and him quha ravished her, with consent of parents, and the King. *lib. 1. c. 8.*
10.

Lawfull mariage, makes lawfull bairns. *lib. 2. c. 49. 6.*

Bairns borne before mariage betwixt their parents, are not legitimate, or made lawfull. *lib. 2. c. 51.*

The Lord may seeke help fra his men, for mariage of his dochters. *lib. 2. c. 73.*

Ane woman being heretrix, may not marie, without consent of her overlord. *lib. 2. c. 48. 2. c. 70.*

Gif the father maries his dochter being his heire, tines and forfeits his landis, gif the same be done without consent of his overlord. *ibidem.*

Ane widow may not marie without consent of her Lord. *lib. 2. c. 40.*
12. 14.

But she may not be compelled to marie. *stat. Alex. c. 23.*

And mair over, she may not marie, without the consent of him, quha sould warrant her dowarie. *lib. 2. c. 48.*

Mariage of ane heire male, or female, of wardlandis, be the law pertains to the superiour. *Quon. Attach. c. 93.*

He quha takes away ane heire within fourtene zeires of his age, and maries him, payes the valour of the mariage, is imprisoned, and sould satisfie the King.

And gif ane heire passed fourtene zeires, maries without licence of his overlord, or refuses ane reasonable mariage offered to him, be his overlord, he fall pay the double of his mariage. *Quon. Attach. c. 91.*

The overlords tynes the warde, and keeping of ane heire of lesse age, then fourtene zeires, gif he maries him in disparage. *Quon. Attach. c. 92.*

Gif the heire being of age, will not marie: he fall pay to the overlord, the valour of the mariage. *Quon. Attach. c. 93.*

The mariage of the heire, pertains to the eldest overlord. *Quon. Attach. c. 94. lib. 2. c. 44.*

The tutour may not sell the mariage. *stat. Rob. 1. c. 8.*

Market, all indwellars within ane Schirefdome, sould resort to the market of that Schirefdome, with their moueable gudes to be sauld. *stat. 2.*

Rob. 1. c. 33.

The Schiref sould sell publickly in the market, the escheittis of malefactours. *stat. Rob. 3. c. 28.*

Within the market, or without, burgessis may poynd landward-men. *leg. burg. c. 3.*

Ane burges is excused fra theift, quha preves that he bocht the thing challenged, lawfully in the market. *leg. burg. c. 28.*

In the market day, stranger-merchants, and stallangeris sould satisfie the prowest of the burgh. *leg. burg. c. 40.*

Bread sould be sauld in the market, or in the window of the buith, and fish in the market. *leg. burg. c. 67. 3. c. 79.*

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In the market day, na man dwelland within, or without the burgh, sould passe furth of the ports of the burgh, to buy any thing. *leg. burg. c. 78.* Vntill it come to the market of the burgh. *stat. gild. c. 29.*

Barkit hides sould be sauld in common market. *stat. gild. c. 41.*

Na man sould buy any merchandise perteining to the gilde, but vpon the market day. *stat. gild. c. 46.*

Marcheta of the woman. *lib. 4. c. 31.*

It hes na place within burgh. *leg. burg. c. 19.*

Merchant how he may recover his debt. *stat. 2. Rob. 1. c. 19.*

He sould pay to the King, his dewtie and custome. *stat. David. 2. c. 12.*

Ane pley betwixt ane burges, and ane stranger merchant, sould be ended within the thrid flowing, and ebbing of the sea. *leg. burg. c. 8.*

Stranger merchants sould buy their merchandises fra burgesfis. *leg. burg. c. 18. stat. wilh. c. 37.*

They sould be suffered to buy and sell, throuhout the Realme. *stat. David. 2. c. 33.*

Messuage, pertienes to the heire, and fallis not in division of the dowarie. *lib. 2. c. 16 62. leg. burg. c. 110. lib. 2. c. 27. 4. c. 28.*

It may not be sauld in prejudice of the heire. *leg. burg. c. 110.*

The messuage, or principall dwellinghouse of ane burges, sould not be given to his wife in dowarie, gif there be ane other dowarie. *leg. burg. c. 26. c. 110.*

Measures, and divers kindes thereof. *stat. Rob. 3. c. 22.*

Ilk burges may haue measures within his house. *leg. burg. c. 52.*

Mesures vsed within burgh, sould be examined be the Chalmerlane. *Iter. Camer. c. 30.*

Miln (molendinum) is not ane escheit, albeit ane man is flane with the quheill thereof. *Quon. Attach. c. 48. 13. mod. ten. cur. c. 64.*

It is lesome in time of night, to gang to ane miln. *Quon. Attach. c. 62.*

In ane miln, there sould be ane Maister, and twa miln-knives. *stat. wilh. c. 9.*

Within burgh they sould be sworne. *leg. burg. c. 68. stat. wilh. c. 9.*

Gif any man is apprehended, passand with cornes to ane other miln. the Lord of the richt miln fall haue the hors: and the miller, the cornes: and the seck. *stat. wilh. c. 9. 7.*

Cornes, or graines bocht in shippis, or fra Burgesfis, may be caried freely to any miln. *stat. 2. Rob. 1. c. 36.*

Ane miln being brunt, be ane horse, burdened with twa sheepe, salbe repared with the skaith be the milner. *stat. David. 2. c. 26. 3.*

It is not lesome to grinne cornes at hand milles: but in time of necessitie. *stat. gild. c. 19.*

And it is not lesome, to haue but twa paire of hand milles. *stat. Gild. c. 42.*

Millers may be accused for findrie causes before the Chalmerlaine. *Iter. Camer. c. 11.*

Minor at quhat time he is of perfit age. *vid. age.*

Ane

Ane overlord being *minor*, sould make answer to his vassall of perfite age, seikand entres to his heretage. *lib. 2. c. 42. 9. lib. 3. c. 32. 13.*

Ane *minor* sould answer in pley, anent his conquests. *lib. 3. c. 32. 4.*

And to ane woman anent her dowarie. *Quon. Attach. c. 90. c. 99.*

And anent sic lands as his predecessour possessed in name of warde. *lib. 3. c. 32. 5. Quon. Attach. c. 99.*

He sould answer for his awne debt, his fathers debt, and anent novell dissaifine (*ejection or spulzie*) *lib. 3. c. 32. 16.*

Ane *minor* within his les age, sould not answer for felonie: vntill he come to perfite age. *lib. 2. c. 42. 11.*

Because ane *minor* may not be compelled to answer in any pley quherin he may tine his life or limme. *lib. 3. c. 32. 15.*

Or his lands and heretage. *stat. wilh. c. 39.*

Ane *minor* being in the tenement of his lands (*saifed in the propertie*) sould not be compelled to dispute anent his heretage in the breive of mortancestrie. *lib. 3. c. 30. 3.*

The husband being *minor*, and his wife *major*, the wife sould not be compelled to pley anent her heretage. *Quon. Attach. c. 38. 3.*

Giftwa sisters are called for warandice, quhereof the ane is *minor*, and the other *major*, the lesse age of the ane excuses the other to pley. *stat. 2. Rob. 1. c. 17. And within burgh. leg. burg. c. 86.*

A *minor* sould not answer anent vsurie. *stat. Rob. 3. c. 21.*

Gif ane being *major*, craues his heretage fra ane *minor* be the breive of mortancestrie, ane essonzie is granted to the *minor* be reason of his minoritie. *lib. 3. c. 32.*

But ane *major* vses not ane essonzie contrare ane other being *major*: nor ane *minor* agains ane other *minor*. *lib. 3. c. 30. c. 31.*

Ane *minor* is restored agains his awne deid. *Quon. Attach. c. 29.*

In ane cause of warandice of ane dowarie, ane *minor* may seeke restitution *in integrum*. *stat. wilh. c. 29.*

Ane *minor* may not be obliffed to ane other man, without consent of his tutour: but ane other man may be obliffed to him. *lib. c. 30.*

5.

Ane being within twentie fiue zeires, may not be ane arbiter. *lib. 2. c.*

4. 4.

Quhen ane *minor* is called as ane warrant, his tutours baith of his persone, and of his lands, sould also be called. *Quon. Attach. c. 90.*

6.

Justice sould be done to pupillis, and fatherlesse, summarly. *stat. Rob. 3. c. 5.*

Quhen ane *minor* is called for warrandice of ane dowarie, his predecessours chartour sould be shawin to him. *stat. wilh. c. 18.*

Money sould not be transported furth of the Realme. *stat. David. 2. c.*

37.

The money of this Realme, sould be conforme to the money of England. *stat. David. 2. c. 48. c. 46.*

Mortan-

The Table.

Morte-ancestrie, the breive of mortancestrie sould be determinid before the Justitiar. *lib. 1. c. 5.*

And be ane Assise. *stat. David. 2. c. 19.* The forme of the breive, and proces. *Quon. Attach. c. 52.*

The breive sould be read: and thereafter the persewer propones his claime. And last, the defender being advised with his friends, answers. *lib. 1. c. 11. 3.*

This breive is granted to the heire crave and the same possession, quhilk his predecessour had of before, quha decessed vest, and saifid as of fee. *lib. 3. c. 28. stat. 1. Rob. 1. c. 23.*

Twa essonzies are grantid to the defender. *lib. 3. c. 28. 10.*

Gif the Assise pronounces affirmatiue, in favour of the persewer: the Schireff fall deliver to him possession of the lands, and of all the moueable gudes thereon. But gif the Assise deliver negatiue, in favour of the defender, he fall bruik and keep the possession, quhilk he had of before. *lib. 3. c. 28. 13. 14. 15. 16.*

Divers and findrie exceptions to stay this breive. *lib. 3. c. 19.*

In this breive, either ane man being *major*, persewes ane other quha is *major*. *lib. 3. c. 28.*

Or ane *minor*, agains ane *major*. *lib. 3. c. 30.*

Or ane *minor* agains ane *minor*. *lib. 3. c. 31.*

Or ane *major*, agains ane *minor*. *lib. 3. c. 32.*

In this breive, the heire recovers the damage and skaithes fra the overlord quha with-halds the lands, in sic maner as is vsed in novell dissaisine. *stat. 2. Rob. 1. c. 6.*

This breive procedeis agains the defender being absent. *lib. 3. c. 28. 4.*

Specially gif he is lawfully summoned. *stat. David. 2. c. 22.*

It is lesome to the defender to call his warrant. *stat. David. 2. c. 22.*

The breive sould be served in plaine court, before the Schireff, be the maist worthy men of the Country, vpon the premonition of fiftene dayes. *stat. Rob. 3. c. 1.*

He quha tynes the pley in this breive, may pley be the breive of richt. *lib. 3. c. 28.*

Multure sould be given be ane frie man conforme to the tenour of his infestment. Ane husband-man, and ane fermorer, fall giue the thre-tene veschell: and mairover of ilk chalder, ane firloft. Na multur sould be payed for the seed, quhilk is sawin in the ground, or land. *stat. Wilh. c. 9. vid. miln.*

Mutilation is punished as slauchter. *stat. Robert. 2. c. 11.*

Murburn sould be made only in the moneth of Marche, and in na other moneth, vnder the pane of fourty shillings. *stat. Rob. 3. c. 11.*

Murther is ane of the foure points of the crowne. *Malc. 2. c. 11.*

And is, quhen ane man is slaine quietly, na other man being present, or seand the slauchter. *lib. 4. c. 5. 3.*

Or publick murther is, quhen ane man is slaine publickly, be for-thocht-felony. *Malc. 2. c. 15.*

In the accusation for this crime, he is admitted to accuse, quha is nearest

The committer of murther, may flie to the girth. *stat. Alex. c. 6.*

N.



NEPVOY, *nepos*, descendand of the sonne, or dochter, gif he is ane onely, succedes to his gudschir, in all his heretage. And gif there be mae nor ane, the eldest only is heire. And gif there be ane nepvoy, and ane niece: the nepvoy onely succedes: for the male ex-

cludes the female. *lib. 2. c. 32.*

The Nepvoy begotten be the eldest sonne, be the richt of representation, succedes to his Gudschir: and excludes his fathers brother. *lib.*

2. c. 33. 5.

Nicht, in the time of nicht, it is not lesome to any man to travaile. *Quon.*

Attach. c. 62. leg. burg. c. 118.

Niece, *neptis*, being ane onely begotten be the sonne, succedes to her Gudschir: And gif there be mae nor ane, begotten be the sonne, or ane dochter, they all succede equally. And gif there be mae Nieces of findry dochters, either they are equall in number, of ilk dochter: and than they succede equally. Or they are inequall, that is, they are mae in number descended of ane dochter, then ane other. And in that case they succede inequally, be reason of the stock, quhereof they are descended. *lib. 2. c. 32.*

Nonentres of lands perteining to the vassell, quha is deceissed, perteines to the immediat overlord, ay and quhill the entres of the richteous heire. *stat. Rob. 3. c. 19. c. 38.*

The breive of

Novell diffaisine (ejection furth of immoueable gudes, or landis: or spulzie of gudes moueable) sould be determid before the Justitiar. *lib. 1. c. 5. 3.*

Be ane Assise of gude and worthy men. *stat. David. 2. c. 19.*

The forme, and proces of the breive. *Quon. Attach. c. 53.*

In this proces, the breive sould be first read: thereafter the persewer propones his clame: and last, the defender being advised with his friends sould answer. *lib. 1. c. 11.*

This breive is granted to recover possession of lands, out of the quhilk ane man is ejected violently, without order of law. *lib. 3. c. 36.*

Gif ane man is spulzeid and diffaised of his moueable gudes: he sall recover possession of the samine: and the spulzear salbe finid and vn-lawid be the King, and imprisoned. *stat. 2. Rob. 1. c. 12.*

And mairouer, sall restore the gudes, and the fruttis, or profitis thereof, and salbe in the Kings mercie. *lib. 3. c. 36. stat. Alex. c. 8.*

This breive is grantid to ane Merchant agains his debtour being in prison. *stat. 2. Rob. 1. c. 19. 6.*

Gif mae personis nor ane commit novell diffaisine: and ane of them deceis, the rest are oblissed. *stat. 1. Rob. 1. c. 13.*

Na warrant is granted in novell diffaisine. *lib. 2. c. 36. 4.*

Na essonzie is granted in novell diffaisine. *lib. 3. c. 28. 11.*

Ane *minor* sould answer anent novell diffaisine. *lib. 3. c. 32. c. 16.*

This breive may be stayed findry wayes. *stat. David. 2. c. 23. vide. ejected.*

O B L I.

The Table.

O.



OBLIGATIONIS are contracted be consent: and zet ilk consent is not obligatour. *lib. 1. c. 22.*

Oven (*quherein breadis bakin*) within burgh, may be had be burgeses only, and na other man. *leg. burg. c. 20.*

In it, the consuetude, and certaine number of servants sould be keiped. *leg. burg. c. 66.*

Overlord, or superiour, sould be summoned gif controversie is for land, quhilk the persouer alledges to be halden of ane overlord; and the defender affirms the samine to be halden of ane other superiour. *lib. 1. c. 24. lib. 3. c. 21. 10.*

Esconzeis are granted to the overlord being summoned. And gif he is contumax, he tynes the superioritie of lands. And gif he be reason of his default tynes the land; he sall warrand, and gif ane exchange to the tenent. *lib. 1. c. 27. 13.*

The overlord hes the warde, and keiping of the person of the heire being *minor*: together with his mariage and profits of his lands, quhi the heire be male or female. *lib. 2. c. 42.*

Bot he may not analie the lands. *vid. minor.*

The overlord sould haue the warde and custodie of ane woman, being ane heretrice, vntill sche be maried with his consent. *lib. 2. c. 48.*

And gif sche commit fornication within the time of the warde, hir lands may pertene to hir overlord. *lib. 2. c. 49.*

The eldest overlord sould be preferred to other overlords, anent the mariage of the heire. *lib. 2. c. 44.*

The overlord sould receave the homage of the heire, being *minor*, or *major*: and may not aske the releive or service fra the heire, vntill he haue receaved his homage. *lib. 2. c. 60.*

Bot some time he may delay, or refuse to receave the homage. *lib. 2. c. 69.*

Gif there be mae overlords nor ane, to ilk ane of them homage sould be made. *lib. 2. c. 61.*

The overlord may receave homage fra the eldest sonne for his fathers heretage, albeit his father is levand. *lib. 2. c. 33. 11.*

The overlord may be compelled to receave the homage of his vassall: and to restore to him his heretage. *lib. 2. c. 71. 6.*

He may distreinzie his vassall, for the releive, helps, or contribution, and service. *lib. 2. c. 73.*

He may call his vassall to his awne court, for service awand to him. *lib. 2. c. 63. 10.*

And gif he may not compell him, to come to his court, he may seike the Kings help and precept. *lib. 2. c. 63. 14.*

Gif ane controversie is betwixt the overlord, and his vassall anent lands: the vassall sould not answer, without the Kings precept. *lib. 3. c. 21. mod. ten. sur. c. 57.*

The vassall sould not molest, trouble, or grievously injure his overlord.

lord. *lib. 2. c. 63.*

And quhow far the vassall is obliffed to his overlord, be reason of homage: the overlord is als far obliffed to his vassall be reason of maintenance, except reverence. *lib. 2. c. 67.*

The overlord may intromet with his vassallis lands, gif question is anent the heretour thereof, and hald them in his awne hands, vntill it be knawne, quha is righteous heire.

The lands of ane condemned theif, perteines to his overlord. *lib. 2. c. 55. 6. lib. 4. c. 12.*

Lands analeid to ane man, sould be halden in cheife of the overlord, and not of the analier, and his heires. *stat. 2. Rob. 1. c. 25.*

The overlord may recognose the lands of his vassall. *stat. Rob. 3. c. 13.*

And he may doe that for many causes. *stat. Rob. 3. c. 19.*

The overlord may accuse for the slauchter of his vassall. *lib. 4. c. 5. 7.*

To the overlord perteines the lands of him, quha is convict of felonie. *lib. 2. c. 55.*

And of him quha being summoned, is fugitiue. *Quon. Attach. c. 102. lib. 4. c. 12.*

P.



ACTION is ane consent of twa persons, or mae, to ane thing. *lib. 1. c. 28.*

It is personall, or Reall. *lib. 1. c. 29.*

Alswa it is profitable, or vnprofitable. *lib. 1. c. 30.*

Ane paction is not obligatour, quhilk is made anent

things, quhilkis are not extant, nor naturally may not be: or are forbidden filthy, impossible, or vngodly. *lib. 1. c. 30. 7.*

Because all pactions sould be lesome and godly. *lib. 1. c. 31.*

Pactions not onely obliffis the makers thereof, but also their successors. And the paction made be the father, obliffis the sonne. *lib. 1.*

c. 31.

Paction, and convention betwixt parties, surmontis the Law. *lib. 3.*

c. 10.

The forme of the breive, anent keiping of paction, and convention.

Quon. Attach. c. 50.

Pannage of swine, quhow meikill it is. *leg. forest. c. 7.*

Pane, or penaltie, is ordained be the law, that the pane of ane, may terrifie many. *lib. 1. c. 14. 6. lib. 4. c. 1. 10.*

Panes sould be multiplied, quhen transgressions increffis, and multiplies. *Quon. Attach. c. 87. 7. stat. Rob. 3. c. 7.*

And panes sould be execute, conforme to the quantity of the crime. *stat. Rob. 3. c. 5. 3.*

Or according to the quality of the persons. *lib. 4. c. 3. 4.*

Ane pane sould be in compromittis, and arbitries. *lib. 2. c. 6. 3. c. 8. 2.*

And he quha obeyes not the sentence of arbiteris, sould pay the pane. And

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And he quha payes the paine, sould not pay the thing quhilk is decerned. *lib. 2. c. 10. 6.*

Parliament is the cheife and supreme court of all courts, and therefore ane dome given in the Justitiars court, may be againe-said and falsified in the Parliament. And it is lesome to appeale fra the inferiour court, to the superiour: and last of all, to the Parliament, but it is not lesome to appeale fra the Parliament. *mod. ten. cur. c. 15.*

The Schiref, and other the Kings officiars may be punissed be the Parliament. *stat. Rob. 3. c. 34.*

Patron being ane laick patron, sould present ane person to ane kirk vacand, within foure moneths, after he knowes the kirk to be vacand, be deceis of the last persone. *lib. 1. c. 2. 3.*

And the persone presented be him, fall posses the kirk all his dayes. *lib. 3. c. 33. 5.*

The pley of patronage perteines to the Ecclesiasticall jurisdiction. *lib. 2. c. 2.*

He is vnderstand to have the richt of patronage, quha proves be ane Assise, that he, or his predecessour made the last presentation. *lib. 3. c. 24. vid. advocacy of kirks.*

Peace. vid. Kings peace:

Perambulation, the breive of perambulation takes not away lands given be the King be certaine methis and marchis. *Quon. Attach. c. 78.*

This breive may be stayed for many causes. *stat. David. 2. c. 20.*

Pilgrameris are vnder the Kings speciall protection. *stat. David. 2. c. 12. leg. burg. c. 63.*

Ane burges being challenged, and in pilgrimage, sould be excused. *leg. burg. c. 48.*

Essonzie of peregrination. *vid. effonzie.*

Perjure and main-sworne persones, sould be excluded furth of the societie of all men: and payes to the King aucht kye: and are infame, and may not be witnes, nor make faith. *lib. 4. c. 29. leg. burg. c. 88.*

Persones vpon ane Assise, being perjure, tynes all their moueable gudes, are imprisoned be ane zeire, and ane day, and be infamie. *lib. 1. c. 14.*

He is perjure, quha resettis malefactours, and man-slayers. *Malc. 2. c. 14.*

Pertinentis of dowarie, may be asked be ane woman haveand ane dowarie. *lib. 2. c. 16. 50.*

Persever hes his lawfull essonzies. *lib. 1. c. 8. Quon. Attach. c. 4. mod. ten. cur. c. 6.*

He sould amplifie his cause with reasons and arguments. *lib. 2. c. 2. 3.*

Gif he is victorious in the breive of richt, he recovers his land with the fruites. *lib. 1. c. 13. 4.*

Gif he quha clames any man fra liberty, to bondage, comperes not the day of comperance; the defender is absolved fra his clame, and remaines ane free man. *lib. 2. c. 11. 8.*

The

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The persewer may prove before the Schiref, that ane inferiour court hes done him wrang. *lib. 3. c. 21.*

He quha asks ane les summe in the breive, nor is in the clame, may seik na mair nor is conteined in the breive. And gif there be mair in the breive nor in the clame, the superplus may be delete. The errour of the name, or of the quantity, casts, and annullis the breive. *lib. 3. c. 26. vid. defender.*

Pledge (borgh or cautioner) in judgement is either ane furthennand borgh, quha is obliffed *de judicio sisti*. Or he is pledge to answer as law will: and is obliffed, *de judicio sisti, et judicatum solvi. Quon. Attach. c. 17.*

In all buying and selling, there sould be ane borgh of haymhald. *lib. 1. c. 18. leg. burg. c. 128.*

He quha makes cession of his gudes, sould find ane pledge to his creditours, for payment of their debt. *Stat. Wilt. c. 17.*

The vassall fra quhom the lands are recognosed, sould offer ane pledge quhen he desires his land fra his overlord: and the overlord sould lat them to him, to borgh. *Stat. Rob. 3. c. 2.*

He quha possesses the thing, quhereof the warrandice is in question, sould find ane plege to enter the samine thing in judgment. *lib. 1. c. 15. 5.*

He quha refuses to obey ane decreit arbitrall, sould find pledges to obey the samine. *lib. 1. c. 27. 5.*

The heire of ane man may be attached be finding pledges, to compeir, to warant the dowary to the relict wife of the defunct. *lib. 1. c. 16. 40.*

The persewer in the breive of mortancestrie, sould find ane pledge to persew his clame. *lib. 3. c. 28.*

He quha is discerned to pay ane debt, sould finde ane pledge for payment thereof. *Quon. Attach. c. 7. mod. ten. cur. c. 14.*

In haymhaldation of cattell, ane pledge sould be given for their cuntrie in court. *Quon. Attach. c. mod. ten. cur. c. 27. c. 28.*

Gif ane man compleine, that he is vnjustly poynded: the poynd sould be restored to him: he findand pledges to persew his complaint. *Quon. Attach. c. 11.*

Pledges sould be given be him, quha falsifies ane dome. *Quon. Attach. c. 13. mod. ten. cur. c. 33.*

Ane pledge sould be given for ilk essonzie receaved. *Quon. Attach. c. 33. mod. ten. cur. c. 55.*

And the pledge is amerciast, gif the essonzie is not proven. *Stat. 1. Rob. 1. c. 6.*

Ilk man strenzeable may be pledge for him selfe, in matters of small consequence. *Quon. Attach. c. 37. mod. ten. cur. c. 68.*

In the breive of novell dissaisine baith the persewer, and defender may be attached be sure pledges: the ane, that he fall persew, the o-ther that he fall compeir. *Quon. Attach. c. 53. mod. ten. cur. c. 4.*

Na man sould hald in his house ane stranger, attour ane day, and ane nicht, without ane pledge. *Quon. Attach. c. 63.*

Gif the defender compeir not the fourt day: the persewer sould finde ane pledge to proue his clame. *mod. ten. cur. c. 11.*

Q

He

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He quha repetis poynds taken fra him vnjustly, sould find ane pledge.
mod.ten.cur.c.31.

In the pley of recent deforcement within burgh, the persewer, and the defender sould find pledges. *leg.burg.c.135.*

In all criminall causes the accuser sould give ane pledge, that he fall persew: and the defender, that he fall make answer. *mod.ten.cur.c.74.*

He sould finde ane pledge, quha is accused for deforcing the Kings officers. *stat.wilh.c.4.*

And the persewer, and the defender sould find pledges in ane action, anent stopping, or with-halding of poynds. *stat.2.Rob.1.c.21.12.*

Ane theif taken with the fange, gif he can not finde ane pledge, is imprisoned. *stat.David.2.c.2.*

Gif ane man is defamed be the voice of ane baronie, and can not find ane pledge, he may be hanged. *stat.David.2.c.17.*

Ane *minor* accused for felony, or any crime, sould find pledges to answer quhen he comes to perfite age. *lib.2.c.42.11.*

He quha is accused of treason, sould find pledges. *lib.4.c.1.3.*

In replegiation of ane man fra ane court to ane other, ane pledge sould be found. *vid.Culreach.*

He quha is accused of thift, sould find ane pledge for payment of the damage, and skaith to the accuser: in case he be overcome in battell. *Quon.Attach.c.13.3.*

Malefactours, and felons, may be latten frie vpon pledges. *lib.4.c.1.7.10.*

And findry malefactours, sould not be latten frie vpon pledges. *stat.Rob.3.c.14.*

Ane manslayer sould not be put to liberty vpon pledges. *lib.4.c.1.10.*

Kirkmen, minores, widowes, fatherles, in their actions sould not be compelled to find pledges. *stat.Rob.3.c.5.*

He quha commits murther, sould not be put to liberty vpon pledges, without the Kings command. *Malc.2.c.15.3.*

Ane woman may not be ane pledge. *Quon.Attach.c.22.*

Ane pledge sould not be found be him quha propoins exceptions, except they be frivoll: or proponed for delaying of justice. *Quon.Attach.c.34.mod.ten.cur.c.56.*

Pledges found for the debtour, sould be compelled to pay the debt, in the samine maner as the principall debtour. *stat.2.Rob.1.c.19.11.*

The pledge may not be compelled to pay, gif the principall debtour is *solvendo*, or responfall. *lib.3.c.1.7. Quon.Attach.c.17.4.mod.ten.cur.c.38.stat.2.Rob.1.c.10.*

Pledges found in judgement, sould be responfall for the vnlaw of the court. *stat.Rob.3.c.29.*

Pledges for the defender in the breive of richt. *lib.1.c.7.16.8.7.*

Gif the defender comperes not at the third court, his pledges fall pay that quhilk is decreited, and also the vnlaw of the court. *Quon.Attach.c.58.mod.ten.cur.c.18.*

Gif

The Table:

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Gif the seller of any thing, suffers his pledge to incurre skaith: he fall pay the tripell of the thing, and aucht kye to the King: and mair over, salbe outlaw furth of the Realme. *lib. 1. c. 18.*

Gif mae pledges nor ane are oblissed conjuncty, ane of them sould not be compelled to answer without the rest. *Quon. Attach. c. 26.*

Pledges confessand their borrowgand, sould satisfie the creditour. *lib. 3. c. 1. 9.*

And gif they be bound conjunctly and severally. *vid. lib. 3. c. 1. 10.*

Gif ane of the pledges is not responfall, the rest sould pay. *lib. 3. c. 1. 11.*

The pledges quha hes made payment to the creditour, hes their re-
leive agains the debtour. *lib. 3. c. 1. 16.*

And to that effect, the breive of releive of borrowgange is granted to
them. *Quon. Attach. c. 51.*

And the fruttis and profitis of the landis perteining to the debtour,
are granted to them, ay and quhill they be satisfied. *stat. 2. Rob. 1. c. 10.*

Gif the pledges denies their borrowgang: the creditour may proue
them to be bound as pledges be his aith, witnes, or be battell. *lib. 3.
c. 1. 22.*

Gif ane man is overcome in battell, his pledges payes to the King,
auchtkye, and ane zoung kow, and fall satisfie the challenger. *stat.
Alex. c. 11.*

Of pledges for burgessis. *vid. burgh.*

Tley (action querelle) is criminall anent the paine of blude: Or civill tou-
ching pecuniall pains, or actions of lands, or gudes, and geir. Gene-
rally criminall pleyes perteines to the Justitiar. *lib. 1. c. 1.*

And also to them quha are infest be chartour, and saisning, with sock,
sack, pit, and gallows, infangtheif, and outfangtheif, quhither they
be Bishops, Barones, or Ballies of Borrowes. *lib. 1. c. 4.*

Civill pleyes (*actions*) perteines to the jurisdiction of Bishops, Barons,
and Burgessis, conforme to the tenour of their chartours. *lib. 1. c. 4.*

Pleyes comes originally and from the beginning, to the Kings court,
or be advocation fra ane inferiour court. *vid. advocation.*

Pleyes within burgh. *vid. burgh. vid. querelle.*

Pleyes of the Crowne are foure in number, murther, burning, reif, revising
of women. Of the quhilkis crimes, the jurisdiction, and penalty, per-
teines only to the King, and not to Barones. *Malc. 2. 11. stat. Alex. c.
14. c. 2. 3. lib. 4. c. 25.*

And in borrow courts, the samine crimes sould be reserved to the
comming of the Justitiar. *leg. burg. c. 6. 3.*

They may not perteine to inferiour courts. *Quon. Attach. c. 76.* Nor
to Ecclesiasticall courts. *stat. Alex. c. 14.*

And gif they be committed within the Schriefdom, they sould be de-
termined within fourty dayes be the Justitiar. *stat. Wilh. c. 2.*

Poynds, or distresses, sould not be taken without consideration of the
court. *stat. 2. Rob. 1. c. 15.*

He quha takes poynds, sould first poynd and distrenzie the moucable
gudes, and sailzing of them the immoucable. *stat. 2. Rob. 1. c. 9.*

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Poynds sould not be taken without the consent of the Lord of the land: Nor about the valour and quantitie of the debt. Na man sould be poynded, but the debtour, and his pledge. *stat. 1. Rob. 1. c. 8.*

Poynds sould be keiped without castellis, and fortalices, in the place quhair they are taken, or in ane place nixt adjacent, *stat. 1. Rob. 1. c. 8. stat. 2. Rob. 1. c. 21. stat. David. 2. c. 21.*

He quha takes ane poynd in any mans land, without consent of the maister of the land, and schawis them not to all men passand be the way, may be accused as ane theif. *lib. 4. c. 22. stat. David. 2. c. 5.*

It is lesome to the Lord of the land, to take ane poynd for his fermes, and his debts, without consent of the King, or any other Lord. *stat. Rob. 3. c. 12.*

Quhen the creditour takes ane poynd fra the debtour, and ane controverfie arises anent the taking of the samine; they baith fall find ane pledge to the Schiref. *stat. 2. Rob. 1. c. 21.*

The poynd sould be restored to him, quha alledges him to be vnjustly poynded: he findand cautioner, or pledge to persew. *Quon. Attach. c. 11. mod. ten. cur. c. 31. stat. 2. Rob. 1. c. 21. 7. 13.*

He quha dwellis in ane Schirefdome, and takes ane poynd within ane other Schirefdome, may not doe the samine, without licence of the other Schiref. *stat. David. 2. c. 6.*

Poynds taken sould not be fauld within the time of fourty dayes, after the taking thereof. *stat. 2. Rob. 1. c. 11.*

He quha violently takes ane poynd within any mans land, may be punished as ane Reifer. *stat. 2. Rob. 1. c. 21. 13.*

Of him quha deforces poynding. *vid. deforcement.*

Na man may be distrenzeit for loyt in court, but only conforme to his infestment. *stat. 1. Rob. 1. c. 21. 2.*

Of poynding within burgh. *vid. burgh.*

Na man may be poynded, gif his moueable gudes are sufficient for payment of the debt: or gif the debtour is ready to pay the debt. *stat. 2. Rob. 1. c. 9.*

Prescription of ane day and ane night, hes place in the crimes of ravil-
ing of women, reif, and haymsuken. *lib. 4. c. 7. c. 8. c. 9. c. 10.*

After ane night and ane day, na man sould be hard to complaine vpon violence done to him be theifs and reiferis. *lib. 4. c. 25.*

He quha repledges not his lands within fiftene dayes, quhilk is recog-
nosced by the King, tynes the samine. *stat. 2. Rob. 1. c. 16.*

Ane dome sould be againe said and falsified within fourty dayes. *Quon. Attach. c. 13. 5.*

Poynds sould not be fauld before 40. dayes be passed. *stat. 2. Rob. 1. c. 11.*

The vassall not repledgeand his lands fra his overlord, within fourtie dayes tynes the samine. *stat. Rob. 3. c. 2. 3.*

In Ecclesiasticall causes, it is lesome to appeale within fourty dayes. *stat. Rob. 3. c. 6.*

Ane laick patron sould present ane persone to ane kirk vacand, within
four oukes. *lib. 1. c. 2. 3.*

Lands

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Lands peaceably possessed within burgh, be the space of ane zeire & ane day, are acquired to the possessour. *leg. burg. c. 89.*

Be prescription of ane zeire and ane day, ane bondman acquires his liberty within burgh, except he be the Kings bondman, and native. *lib. 2. c. 12. 17. leg. burg. c. 17.*

And wayf beast is prescribed after ane zeire and ane day. *Quon. Attach. c. 48. 14.*

Within ane zeire and ane day the vassall reteines, and na way tynes the possession of his lands, albeit they be recognosed be his overlord. *stat. Rob. 3. c. 2. 2.*

Ane servand or bondman, dwelland as ane frie man in ane other mans lands, is made thereby frie, except he be the Kings servant. *lib. 2. c. 12. 15.*

Price of victuall, and of other things within burgh, sould be set downe be the Chalmerlane. *Iter Camer. c. 33.*

Price of letters, and breives direct furth of the Kings Chancellarie. *Malc. 2. c. 2.*

Prises taken vp be the Kings provisors, quhow and of quhom they sould be taken. *stat. David. 2. c. 40. c. 48. c. 52.*

Trifon he sould be imprisoned quha is suspect, or accused of treason. *lib. 4. c. 1. 10.*

And they quha are convict of wilfull errour, vpon ane Affise. *lib. 1. c. 14. 4.*

He quha compleines vpon ane man, in ane criminall cause, and hes na pledge to persew, or he quha will not persew. *stat. Alex. c. 10. stat. 1. Rob. 1. c. 34.*

He quha receaves thift-bote for ane theif. *stat. 1. Rob. 1. c. 9. 4.*

He quha makes not the cruves, and zaris conforme to the lawes, or takes the frie of Salmon. *stat. 1. Rob. 1. c. 22. 3.*

He quha commits dissaisine violently, and with armes. *stat. 1. Rob. 1. c. 13. 5. stat. 2. Rob. 1. c. 12.*

He quha transports, and sellis gudes to be transported furth of the Realme, without the Kings licence. *stat. 1. Rob. 1. c. 24.*

He quha commits dissaisine in moueable gudes. *stat. 2. Rob. 1. c. 12.*

He quha ravishes ane religious Nunne, albeit she consent. *stat. 2. Rob. 1. c. 14.*

He quha is decerned in judgement, for merchandis debt. *stat. 2. Rob. 1. c. 19.*

Furious men sould be keiped be their frends, or else imprisoned. *stat. 2. Rob. 1. c. 24.*

Ane theif taken with reid hand, quhen na man appeares to persew him. *stat. David. 2. c. 2.*

Ane burges accused criminally, quha can not finde ane pledge for him. *leg. burg. c. 62. c. 80.*

Kempsters fugitiue furth of the burgh. *leg. burg. c. 109.*

He quha takes away ane bairne, being ane heire of warde lands, and maries him. *Quon. Attach. c. 91.*

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He quha takes him away, quhais mariage perteines to the overlord, is imprisoned twa zeires: albeith restore the bairne not married, but in frie estate. And gif he restores him not againe, or causes him to be married: he sould be imprisoned perpetually: or banished for ever.

Quon. Attach. c. 95.

He sould be imprisoned, quha deforces the Kings officiars. *stat. wilh. c. 4.*

The maister of the prison, sould answer for the theif, passand furth of the prison. *stat. David. 2. c. 1. 6.*

He quha is imprisoned for felonie, sould be sustened; and also his family, vpon his awne gudes. *stat. 2. Rob. 1. c. 22.*

All deides done be him quha is in prison, are null, be reason of just feare, and dradour. *Quon. Attach. c. 29.*

The keiper of the prison, sould answer for the debt, or for the body of the debtour imprisoned. *stat. 2. Rob. 1. c. 19. 3.*

Ane frie man generally sould not be imprisoned. *Quon. Attach. c. 39. mod. ten. cur. c. 69.*

Probation of debt, may be led and deduced be witnes, or be singular battell, or be the aith of party. *lib. 3. c. 7. 8.*

Probation be witnes. *vid. witnes.*

Probation be battell. *vid. singular battell.*

Probation be aith. *vid. aith.*

Probation be Affise. *vid. Affise.*

Probation be writ. *lib. 1. c. 25. 12.*

Probation of liberty, sould be done, be the kynsmen of him quha clames liberty: quhais liberty and estate is notorious: Otherwaies, gif any doubt is of their estate, the samine sould be tried be ane Affise. *lib. 2. c. 11. 10.*

Gif the debtour denies the debt: the creditour sould prove the samine. *lib. 3. c. 3. 11* Be writ or otherwaies. *lib. 3. c. 7. c. 8.*

The pledge sould pay the debt, or prove it payed. *lib. 3. c. 1. 9.*

Gif ane controversie is anent the age of ane man: he quha alledges majoritie sould prove the samine. *lib. 3. c. 32. 19. 22.*

Before the Justitiar in his court, ane debt may be proven be twa witnes, gif it be les nor fourty shillings. And gif it be mair, it sould be proven be writ. *Quon. Attach. c. 81.*

The essonzie, be reason of the Kings service, sould be proven be the Kings letter. And the essonzie of infirmitie be ane affise. *stat. 1. Rob. 1. c. 6.*

And the essonzie for being at ane publick faire, or furth of the Realme, sould be proven be the aith of him quha is essonzeid, and of ane other sverand with him. *stat. wilh. c. 26.*

The persewer sould prove his libell of lent money: and the defender the exception of payment thereof. *stat. 2. Rob. 1. c. 23.*

The Lord or Maister in his awin court, may prove any thing agains his tennant, be writ: but not be witnes. *Quon. Attach. c. 24. mod. ten. cur. c. 44.*

The

The faith and truth of ane seall, may be proven be the seall, or be comparison of mae seales or letters. *lib. 3. c. 8. 7.*

At the terme of probation, gif the persewer is absent, or fails in probation: the defender being present, may circumduce the terme against him; and swa the persewer tines the cause. And gif the defender is absent, he tynes the cause. *mod. ten. cur. c. 22.*

And gif they baith are absent, they may be summoned be the Judge, and amerciate. *stat. Rob. 1. c. 30. mod. ten. cur. c. 23. lib. 1. c. 8. 35.*

Gif the persewer failies in his probation: the defender sould be absolved. *mod. ten. cur. c. 11.*

The forme of probation of lands sauld within burgh. *leg. burg. c. 127.*

Probation or verification of the summons. *vid. summons.*

That quhilk is anes lawfully proven, sould not be iterat, or renewed. *lib. 1. c. 8. 5.*

Procuratour is he, quha is constitute be any man, in ane civill cause or quarrell in his place, to tine, or wone for him. *lib. 3. c. 15. 2.*

He quha constitutes ane procuratour, sould be present in judgement. *lib. 3. c. 17. 5. 6. lib. 3. c. 15.*

But ane procuratour may be made contrare him, quha is absent. And likewise, he quha is absent, may be made and constitute. *lib. 3. c. 15.*

3. Ane procuratour, or mae, may be made conjunctly, and severally, with speciall mandat. *lib. 3. c. 15. 5. 8.*

Ane procuratour may vse lawfull effonzies, ay, and quhill he be lawfully revoked. *lib. 3. c. 16.*

Ane procuratour may be revoked at the will, and pleasure of the constituent. *lib. 3. c. 16. 3.*

The deid done be the procuratour, oblisses the constituent; and he may be poynded and distrenzeid for the samine: but the procuratour may not be poynded for his awne deid. *lib. 3. c. 17. 3. 4.*

Ane procuratour may not substitute ane other, except he haue speciall power granted to him to that effect. *lib. 3. c. 19.*

Ane sergent of the court, may not be ane procuratour. *stat. 1. Rob. 1. c. 28.*

Ane procuratour sould haue ane speciall mandat. *lib. 3. c. 15. 5.*

Except they be some religious persons, quha may compeir as procuratours, without ane mandat. *lib. 3. c. 28.*

Protection. vid. Kings protection.

Provisours to the King, Justitiar, or Chalmerlane, for findry causes may be accused before the Chalmerlane. *Iter. Camer. c. 17.*

To *Pure* persons, Justice sould be done, als weill, as to ritche men. *stat. 1. Rob. 1. c. 2.*

The father be reason of poverty may revoke the gift or donation made to his sonne. *vid. father.*

Probation of poverty sould be, by twelue men within burgh. *leg. burg. c. 11. c. 125. 5. c. 127. 5.*

Pure folk are vnder the Kings protection. And thift committed against them,

The Table.

them, may be proven be ane aith. *stat. David. c. 12. c. 13.*

Purgation or acquittance, is granted to the defender, quhen the persewer hes na probation. *lib. 4. c. 21. Quon. Attach. c. 55. mod. ten. cur. c. 55.*

Or quhen he hes probation, quhilk as vnlawfull is repelled be the Iudge. *Quon. Attach. c. 24. leg. burg. c. 82.*

Purgation, or acquittance is made be the aith of the defender, and of certaine others makand faith with him, in causes of debt, and others. In this forme, first the defender sweres, that he aw na thing to the persewer. And thereafter he makes faith, that he leades with him faithfull and trew men. And last, they sweir, that his aith is trew, and veritable. *Quon. Attach. c. 5. 7. mod. ten. cur. c. 13.*

Gif the defender compeir in the fourt court: he proves his effonzie be his awin aith, and be the aith of ane with him; that is, *propria & unica manu.*

Ane may prove that ane court, or Iudge, hes done him wrang, be his aith, and of twa with him. *lib. 2. c. 21. 3.*

Gif silver alledged stollin, is found in any towne: the prowest of the towne, and twa men with him, fall sweir that they are clene of that theft. *stat. Wilh. c. 14.*

Ane man may haymhald and repeit his cattell, be his awin aith, and be the aith of twa men with him. *Quon. Attach. c. 10. 6.*

Ane vassall accused for the exheredation of his overlord, or for ane grievous injurie done to him, may purge him self, be his awin aith, & of thrie men with him. *lib. 2. c. 63. 11.*

He quha is accused within burgh, for breaking of the Assise & lawes, may acquit him self by his awin aith, and of five men with him. *leg. burg. c. 41.*

The debtour denyand the debt, may acquyt him be his awin aith, and of five men makand faith him. *Quon. Attach. 55. mod. ten. cur. c. 13.*

The defender may purge him self agains the King, or his overlord, by his awin aith, and the aith of eleven men with him. And in sindry o-ther causes, be his aith, and of twelue men. *Quon. Attach. c. 24.*

Ane burges man, makand his excuse fra singular battell, fall clenge him be his awin aith, and of eleven men with him. *leg. burg. c. 24.*

And siclike quhen he is accused of theft, by ane landwart man. *leg. burg. c. 28.*

The defender comperand in the fourt court, and denyand all the summons execute agains him: fall acquyt him self by his awin aith, and of eleven men with him. *lib. 1. c. 7. 11. 12.*

And siclike quhen he is accused for injurie done to the King. *Quon. Attach. c. 75.*

And quhen ane is accused of felony done by him to the King, he fall clenge him self by his awin aith, and of twenty foure leill honest men being his pieres. *Quon. Attach. c. 25. 4.*

He quha is accused of theft, may acquyt him self be his awin aith, and of twenty seaven men, and of thrie thains. *lib. 4. c. 21.*

Gif ane theif purge not him self lawfully; he sould be punished as ane proven

proven theif. *stat. David. 2.c.4. Mod. sen. cur. c.73.*

Gif ane theif eschew forth of prison, the Lord of the prison shall make faith, and twentie seven men with him, that he is innocent. *stat. David. 2.c.1.6.*

Ane man may againe say that quhilk he is alledged to haue said in the Court, be his awin eath, and of some others. *lib. 3.c.24.*

Purgation is granted to the tennent against his maister, intendand to proue any thing against him, be witnes. *Quon. Attach. c.24.*

Purgations being anis made, sould not be renewed. *Quon. Att. c.82.*

Gif the defender succumbs, or failzies in his purgation, he tines the cause. *mod. sen. cur. c.13.*

Gif ane day is assigned to the defender to make his purgation, and at that day he is absent, he tines his purgation. And gif he is present, and the perseuer is absent, his purgation sould be receaved. And gif they are baith absent, they may be summoned be the Judge, and amerciate. *mod. sen. cur. c.23.*

Divers and sundrie persons are repelled fra making of any purgation. *stat. 2. Rob. 1.c.36.*

Purgation of ane Burges. *leg. bur. c.28.c.3 1.c.41.c.82.c.24.*

Purgation be fire and water. *lib. 4.c.3.4.*

It is vngodly and forbiddin. *stat. Alex. 2.7.3.*

Hurt of bodie and age, excuses not men from this kinde of purgation. *lib. 4.c.3.*

Purpresture against the King many wayes is committed, as in his proper- tie: In his hie and common passages stopped, or included: In waters returned fra the right course. And he quha commits any such purpre- sture, and is convict thereof before the Justitiar, sould restore that quhilk he is occupied, and tines, and forfaults his lands halden of the King.

Item, purpresture may be committed against the King, quhen ane man within Burgh purprises and occupies any thing vpon the common & publick hie streits. And he quha is convict hereof before the Justice, tines not, nor forfaults his lands halden of the king, bot tines that quhilk he occupies, and is punished be the Kings mercie. *lib. 1.c.5. lib. 2.c.7.*

Secundly, purpresture is committed be the vassall, against his over- lord; he may be accused therefore in his overlords court, & being con- vict, may tyne and amitt all his lands halden of him. *lib. 2.c.74.9.*

Thirdly, gif purpresture is committed against ane other, nor the King, or the overlord, sic as ane neighbour, for mæths and marches of lands: the cognition thereof pertaines to the Schiref. *lib. 2.c.74.14.*

Q.



QUERRELL (complaint, pley) *Vid. Tleyes.*

Querrels or pleyes being ended, sould not be renewed *lib. 1.c.13.3.*

Ane complaint or querrell of aggriance made in court, and not observed, may be proponed be him quha o- beyes

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beyes not. *lib. 1. c. 27. 3.*

Querrillis and pleyes sould be determed in the proper courts of the Lords. *Quon. Attach. c. 27.*

Querrillis and pleyes, sould not be mainteined be great and potent men. *stat. 1. Rob. 1. c. 22. Malc. 2. c. 14. 4.*

Querrillis agains burgesfis, sould be decided within burgh. *leg. burg. c. 7.*

R.



REIF, or *roborie*, is ane of the foure poynts, and pleyes, of the crone. *Malc. 2. c. 11.* And perteines to the Justitiars court. *lib. 1. c. 1. 5.*

The forme of the proces is alike, with the proces of ravishing of women. *lib. 4. c. 7. c. 25.*

They commit reif, quha comeand to the Kings hoist, wafts and destroys, or takes mair nor is sufficient for their sustentation. *stat. 1. Rob. 1. c. 5. 4.*

Gif the debtor, or any in his name, takes the poynds fra the creditor, he sould be punissed as ane proven reifer. *stat. 2. Rob. 1. c. 21. 12.*

He commits reif, quha takes ane poynd without the Kings officers, or the Lord of the land. *stat. Rob. 3. c. 12.*

The skayth of reif committed, may be modified be ane Affise. *Quon. Attach. c. 68.*

Ane reifer may flie to the Girth. *stat. Alex. c. 6.*

Na man may accuse for reif, or roborie done to him, after ane day, & ane nicht. *lib. 4. c. 10.*

Reif of other mens gudes, is forbidden. *stat. wilh. c. 33.*

The paine of roborie, or reif, is death, and confiscation of all moueable gudes. *stat. Rob. 3. c. 44.*

Ravishing of women, is ane of the foure poynts, & pleyes of the crowne. *Malc. 2. c. 11.*

And perteines to the Justitiars court, and jurisdiction. *lib. 1. c. 1. 5.*

Ravishing is ane crime, quhen ane woman complaines, that she is oppressed, and defiled in hir body, agains the Kings peace. *lib. 4. c. 8.*

Ane woman being ravished, sould incontinent manifest, and declare the samine to hir neighbours, to the Kings mair, and to other, at the Kings cheif castell of that Schirefdom. *lib. 4. c. 8.*

He quha ravishes and deforces ane woman, may marie hir, with consent of hir parents, and the King. *lib. 4. c. 8. 10.*

This crime is prescribed be the space of ane day, and ane night. *lib. 4. c. 10. 2.*

He quha ravishes away ane heire of wardlands, sould be imprisoned, or banished. *Quon. Attach. c. 95. vid. prison.*

He quha ravishes ane haly Nunne, sould be imprisoned thrie zeires. *stat. 2. Rob. 1. c. 14.*

Recognitron, the breive thereof, sould be determed before the Justitiar. *lib. 1. c. 5. 3.*

The

The lord may not recognose ane tenement, or land, for byrune mailis, or dewties. But the overlord may recognose it, for service aucht to him. *Quon. Attach. c. 46. c. 47. mod. ten. cur. c. 50. c. 51.*

The forme of proces, for recognition of lands, for none payment of the zeirly dewty. *leg. burg. c. 136.*

The overlord may not recognose lands, but for ane just cause, published in the paroche kirk. *stat. Rob. 3. c. 2. stat. Wilh. c. 31. stat. David. 2. c. 34.*

Many and findrie causes of recognition. *stat. Rob. 3. c. 19. stat. Alex. c. 26.*

The vassall fra quhom lands are recognosced, reteines the possession be the space of ane zeire and ane day: And within fourty dayes, he may repledge them fra his overlord. And mair over, the vassall is vnderstand to be proprietar, and possessour, ay and quhill the proces be ended. *stat. Rob. 3. c. 13.*

Record of court. vid. court.

Recorde of summons. *stat. David. 2. c. 51.*

Regalitie, Lords of regalitie, sould hald their courts, twise in the zeire in criminall causes, in the samine maner, as the Justitiar sould doe. *stat. Rob. 3. c. 33.*

They may be punished be the King. *stat. Robert. 2. c. 14.*

They sould summond malefactours fugitive. *stat. Rob. 2. c. 16.*

They sould obey the Schirefs letters, summoning malefactours fugitives. *stat. Rob. 3. c. 45.*

Regreators and huksters, quha commonly sell within burgh, sould sell to all, alsfweill strangers as to others. *leg. burg. c. 73.*

They may sell na thing, before thrie houres: they may buy na wooll, but quhite wooll, and threid. *leg. burg. c. 73.*

They sould buy na thing before the ringing of the bell in the steipell. *stat. Gild. c. 28.*

Regreators may be accused before the Chalmerlane. *Iter. Camer. c. 20.*

Relive of all the Kings barons, and frie-halders, was granted and given to King *Malcolme*, the secund of that name. *Malc. 2. c. 1. 2.*

The pley anent releives, pertienes to the Schiref. *lib. 1. c. 3. 5.*

The releive of ane Knight is five pundis: Of him quha halds in blensche ferme, is ane zeires rent. And of ane baronie, is arbitrare to the king. *lib. 2. c. 71. 2.*

The overlord, may reteine in his awin hands, his vassallis lands, ay and quhill the vassall pay his releive, or satisfie him therefore. *stat. Rob. 3. c. 19.*

Gif the heire refuses to pay his releive, he may be distrenzeid & compelled be the overlord, to make payment thereof. *lib. 2. c. 73. 6.*

The heir sould offer his releive, before he recover his land fra his overlord. *lib. 2. c. 72.*

The vassall haueand mae overlords nor ane, sould give to ilk ane of them, his awin releive. *lib. 2. c. 44. 2.*

Ane releive being anis and already payed, sould not be asked nor craved thereafter. *lib. 2. c. 70. 4.*

The

The Table.

The heire is not compelled to pay the releif, gif he being of lawfull age, is entered to his lands, before the terme of the payment of his releive. *lib. 2. c. 68.*

Ane woman heretrice of lands, being *minor*, and married with consent of hir overlord, she, nor hir husband sould pay na releif. And gif she is *major*, quhen she is married, hir husband fall pay the releive. *lib. 2. c. 70. 2. 3.*

The overlord may receave the releive. *lib. 2. c. 72.*

Releive sould be given be him, quha judicially recovers any lands. *lib. 2. c. 70. 6.*

Religious men may not be compelled to fight; the singular battell. *stat. Alex. c. 5.*

They may be procuratours without ane mandat. *lib. 3. c. 18. vid. kirk. vid. Kings peace.*

Remission of ane crime, be the King given to any man, without consent of the party haue and entres, prejudices not the party. *lib. 4. c. 17. 4. vid. King.*

Remission is nulle, gif the party is not satisfied: And it sould not be given for voluntar slauchter. *stat. David. 2. c. 44. c. 50.*

Repledgiation fra ane court to ane other, may be done, be the Lord, or his Bailly haue and speciall power, to repledge ane man, to his Lords court. *Quon. Attach. c. 8. c. 15. As ane letter of attorney. mod. ten. cur. c. 25.*

The Soytour of ane baron, may repledge ane man, to his barones court. *Quon. Attach. c. 15. mod. ten. cur. c. 35.*

He quha repledges ane man, fra ane other mans court, to his awin court, sould find and leave behind him in the court, fra the quhill the repledgiation is made, ane pledge anent doing of Justice in his court to the persewer, and the defender. *mod. ten. cur. c. 25. vid. culreache.*

Na man may repledge ane other, but his awin bond and native man, or dwelland vpon his lands, or of his family. *stat. Alex. c. 4.*

Or of his consanguinity, within degree defendand. *stat. 1. Rob. 1. c. 11.*

Manslayers, theifes, may be repledged be their Maisters, gif they be taken and apprehended be any man, and keiped attour ane nicht, and ane day. *Quon. Attach. c. 39. 3. mod. ten. cur. c. 70.*

He quha in court denies the persewers clame, may not be repledged to ane other court. *Quon. Attach. c. 8. 3. mod. ten. cur. c. 25. stat. 1. Rob. 1. c. 17. leg. burg. c. 61.*

He quha is called for warrandice, may not be repledged. *Quon. Attach. c. 10. 8. mod. ten. cur. c. 30.*

He quha finds pledges to the Schiref, in ane action wrangous poynding, may not be repledged fra the Schirefs court. *Quon. Attach. c. 11. 3. mod. ten. cur. c. 31.*

He quha is called to the Kings court for any thing, alledged perteing to the King, as escheit, may not be repledged. *Quon. Attach. c. 48. 9. mod. ten. cur. c. 61.*

Gif ane man is accused for grievous crimes against the King, he may

not

not be repledged. *Quon. Attach. c. 39.*

Na repledgiation is admitted, fra the courts of borrowes. *stat. 1. Rob. 1. c. 17.*

Bot ane Burges being summoned to compeir in the Kings court, may compeir, and desire to be repledged to his awin court, of his awin burgh. *leg. burg. c. 61.*

Sindrie and many malefactours may not be repledged. *stat. Rob. 3. c. 14.*

In the Justitiars heire, burgesses may be repledged. And sic like men dwelland within Regalitie. *Iter. Just. c.*

Retour, or ane answer returned fra the Schiref, anent the breive direct to him, furth of the Kings Chancellarie. *stat. Rob. 3. c. 1.*

Rule of land, the measure, and quantitie thereof. *leg. burg. c. 119.*

Refetter of malefactours, is punissed by perpetuall tynsell of his Court. *Malc. 2. c. 10. stat. Wilh. c. 7. 6.*

Ane refetter of ane manslayer, is punissed by tynsell of his moveable gudes, and of his lands, induring his life-time. *stat. Rob. 2. c. 10.*

Refetter of malefactours, is menisworn. *Malc. 2. c. 14.*

The refetter sould not be punissed, before the malefactour principall. *lb. 4. c. 26. Quon. Attach. c. 83. stat. David. 2. c. 29.*

He commits theft, quha resettis ane other mans wife, with his gudes and geir. *Quon. Attach. c. 85.*

Refetter of ane theif, is punissed as the principall theif. *stat. Alex. 21.*

He is esteemed to be ane refetter of theft, quha stops, and stayes ane sleuthound followand theifes. *stat. 1. Rob. 1. c. 7. 3.*

Refetter of forneris and ketharanis, is punissed. *stat. Rob. 2. c. 12.*

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S*AIDLERIS* may be accused before the Chalmerlane. *Iter. Cam. c. 27.*

Saising is necessar, in all alienation, and disposition of lands. *lib. 2. c. 18. 5. 6.*

The first saisng is preferred to the posterieur saisng.

lb. 2. c. 33. 14.

Within burgh, he quha buyes the lands, gives ane pennie to the pro-vest: and the seller gives ane other pennie. *leg. burg. c. 56.*

Saisng may be given within burgh, outwith the Court. *leg. burg. c. 114.*

Vpon the ground of the lands. *leg. burg. c. 127.*

At quhat time, ane saisng may be broken and stopped. *stat. Rob. 3. c. 39.*

Salmon. vid. fishing.

Corrupted Salmon sould not be fauld. *stat. Rob. 3. c. 40.*

Salt may be fauld within shippes, by Merchants. *leg. burg. c. 10. stat. Gilda. c. 22.*

Schiref sould hald his courts, ilk fourty dayes. And at them sould be present, Barones, Knichts, Frie-halders, and the Stewarts of Bishops,

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Abbats,

The Table.

Abbats, and Earles. *stat. wilh. c. 2.*

The Schirefhes thrie head courts in the zeire. *Quon. Attach. c. 9.*

The Schiref sould haue for his fie, ten punds furth of the escheittis of his courts. *Malc. 2. c. 7. stat. Rob. c. 25.*

His Clerk, of ilk vnlaw, sould haue twa schillings: And his sergent, ane zong kow, or thrittie pennies. *Malc. 2. c. 7.*

The Schiref Clerk sould be deput be the King, and oblissed to him, and obey his command. *stat. Rob. 3. c. 23.*

To the Schirefs jurisdiction perteines the actions, and pleyes of Baronies, of womens dowaries, of aggreance and finall concord betwixt parties not keiped nor observed, of homages, releives, and of debts of laick men. *lib. 1. c. 3.*

And also pleyes of richt & heretage, in case the courts of the barones are alledged to haue done wrang. *lib. 1. c. 5. lib. 3. c. 21. c. 22.*

And anent poynds and distresses taken for debt, by the Kings precept. *lib. 1. c. 5. 5.*

And anent not fulfilling of decreittis arbitrall. *lib. 2. c. 27.*

And the breive of bondage, quhen ane man is alledged to be ane bondman, or contrarieways. *lib. 1. c. 3. lib. 2. c. 11.*

And anent methis and marchis of lands, betwixt neighbours. *lib. 2. c. 74. 14.*

The breive of mortancestrie. *lib. 3. c. 28.*

The breive of warrandice. *Quon. Attach. c. 55.*

The Schiref sould restore to him quha is dissaissed, the possession, and the frutes of the lands. *lib. 3. c. 36. 10.*

He sould restore poynds to him, fra quhom they are vnjustly taken.

Quon. Attach. c. 11. mod. sen. cur. c. 31. stat. 2. Rob. 1. c. 21. stat. David. 2. c. 6.

The Schiref sould crave payment of the Kings debts auchtand by any man deceissed, before making of his testament. *stat. wilh. c. 21.*

The Schiref, or his Deput, sould be present at the courts of kirkmen, and of barons. *stat. Alex. c. 14.*

The controversie betwixt the overlord and the vassall, anent foyt of court, perteines to the Schirefs jurisdiction. *stat. 2. Rob. 1. c. 4.*

He quha dwells within ane Schirefdome, may not take ane poynd within ane other Schirefdome, without licence of the Schiref quhere the poynd is taken. *stat. David. 2. c. 6.*

The Schiref is ordinar Judge, in the breive of inquest. *stat. Rob. 3. c. 11.*

The Schiref sould make inquisition anent murther, and sould burie the bodie of him quha is murthered. *Malc. 2. c. 15. 6.*

And of the wreck of the sea. *stat. Alex. c. 25.*

He may attach malefactours. *Malc. 2. c. 16.*

He may sit, and cognosce vpon slauchter and thift, quhen ane certaine man accuses. *lib. 1. c. 1. 6.*

He sould send his Sergents to see right done anent warrandice of things alledged rest, or stollen. *lib. 1. c. 16.*

He may take satisfaction for him quha is flaine by the hinder feit of ane hors. *lib. 4. c. 24. 3.*

He

He sould take inquisition of malefactours, summond, and punish them
stat. Rob. 2. c. 15. c. 16. stat. Rob. 3. c. 44. c. 45.

Hee may cognosce vpon thift, in the samine maner, as the Iustitiar.
Quon. Attach. c. 42.

And likewise vpon slaughter. *Quon. Attach. c. 59.*

And generallie he may hald Court in criminall causes, as the Iustitiar
may do. *stat. Rob. 3. c. 33.*

He may cognosce vpon thift done to religious persons, and to vthers.
stat. Alex. c. 5.

He sould cause stollen silver, to be restored to the richt awner. *stat.*
with. c. 14.

He sould punish them quha halds in their house, ane stranger, without
ane pledge. *Quon. Attach. c. 63.*

He sould cognosce anent deforcement of the Kings officers. *stat. with.*
c. 4.

And anent pleyes of the Crowne, be command of the Iustitiar. *stat.*
with. c. 2. 5.

He sould tak vp the vnlaw of sax shillings, aucht pennies fra them, quha
slayes hares in the time of snaw. *stat. Rob. 3. c. 10.*

The Schiref sould bring in, and vplift, the issues of the Justitiars air.
stat. Rob. 3. c. 25.

Generallie he may cognosce vpon all crimes, sic as tuilzies, straikes,
wounds, and others, quhen the accuser alledges the breaking of the
Kings peace. *lib. 1. c. 3. 8.*

The moveable gudes of ane theif convict of thift, perteines to the Shi-
ref. *lib. 2. c. 55. 16.*

Giftwa parties wage battel in the Schiref Court, he may make record
thireof in the Kings Court. *lib. 3. c. 23. 8.*

The Schirese sould be present in Baron Courtes, gif purgation be
made there befyre, or be hate vron. *stat. v. lh. c. 18.*

He sould cause the law anent fishing of Salmon to be keiped. *stat. 1.*
Rob. 1. c. 12. 5.

And likewise that burrowlawes be keiped within burgh. *leg. lurg. c.*
233.

He sould compeir ilk zear in the Checker, vnder the paine of ten pun-
des, and tinsell of his office. *stat. Rob. 3. c. 26.*

He sould sell the debteurs landes, and satisfie his creditours. *stat. Alex.*
c. 24.

He sould haue the actes of Parliament, and his instructions fra the
Kings Counsell.

And he sould be zearlie examinat in the Checker, anent the observa-
tion of them. *stat. Rob. 3. c. 24.*

He sould make in the Cheker before he receaue any fie. *stat. Rob. 3.*
c. 25.

Ilke man dwelland within the Schirefdome, sould come to the market
of the Schirefdome, with their gudes. *stat. 2. Rob. 1. c. 34.*

The Table.

He hes na jurisdiction without his awin Schirefdome. *Quon. Attach.* c.71.

He may be deprived, and removed fra his office be the Justitiar. *stat. Rob. 3. c. 34. c. 45.*

Seal being affixt to ane chartour, he quha grants the seal to be his, affirmes the chartour: and all quhilk is contened therein.

And gif he denies the seal to be his awin: the contrar may be proven be singular battell. *lib. 3. c. 8. 4. 6.*

Ane retour of the breive of inqueist, sould be sealed. *stat. Rob. 3. c. 1. 4.*
The truth and veritie of ane writ, may be proven by comparison of many seales. *vid. chartour.*

Secretar to the king sould writ the names of al witnesses, quha war present at the making of any resignation of lands, in the Kings hands, and send them to the chancellor. *stat. Rob. 3. c. 9.*

Sentence, Verdit, or deliverance of ane assise, is absolvitour, or condemnatour: and he quha is condemned, is never heard thereafter. *lib. 1. c. 13. 3. vid. Assise.*

In the execution of ane decreit for debt, the debtour sould be first imprisonit, and his moueabil guds poyndit and takin. Thereafter his immoveabils may be saisit and possessit, quhilk pertaint to him the time of the contracting of the debt, in quhis possession that ever they be: and the debt being payit, they sall be restorit to the possessor. *stat. 2. Rob. 1. c. 19.*

Sergent within burgh, nor without burgh, may nocht be procuratour, actornay witnes, nor mak faith with any man in his purgation. *stat. 1. Rob. 1. c. 2.*

Service of lands, sould be made to the Lord or maister, conforme to the quantitie of the lands. *stat. 2. Rob. 1. c. 18.*

The overlord may not craue the service fra his vassall, vntill he haue first receaved his homage. *lib. 2. c. 60. 6.*

Ane vassall hauand sundry and diuers overlords, sould do his service to ilk ane of them: bot he sould serue the eldest overlord before vthers. *lib. 2. c. 61.*

The overlord may recognosce the lands for his service. *stat. Rob. 3. c. 19. 6.*
Service done be ane tennent, or fermorer to any man, quhilk he is not oblissit to do, prejudgis not his maister. *Quon. Attach. c. 44. c. 45.*

Servitude, bondage, or slavery, is opponit as contrair to liberty, as ane bondman, to ane free man, and it tuke beginning from the drunkennes of Noc. *lib. 2. c. 14. 4.*

Servant, bondman, slaue, may not be ane arbiter. *lib. 2. c. 4.*
Ane man being haldin as ane slaue in service, may seik his liberty. *lib. 2. c. 11. 4.*

Ane servant hes na proper gudes, and therefore he may not buy his liberty, with his awin geir and gudes. *lib. 2. c. 12. 5.*

Servants may not be promovit to haly orders. *lib. 2. c. 13.*

Ane servant being wounded with deformitie in his face by his maister, sould have the fourt part of his awin price: and als wa, the price of
of

of the blude. *stat. wilh. c. 20.*

Ane servand being manumitted or put to libertie by his maister, without the Kings licence, salbe ane frie man concerning his Maister, and his heires, but not tuiching others. *lib. 2. c. 12. 13.*

Ane servand dwelland within the Kings burgh, by the space of ane zeire and ane day peaceable, without any challenge, is made frie. *leg. burg. c. 17.*

For quhat caussis ane servand becomes ane frie man. *lib. 2. c. 12.*

Domestick servands sould reveale the crime committed be their Maister, or els pas fra his service. *stat. wilh. c. 19. 9.*

Servands, or natives, or villaines, are of sindrie kindes. *Quon. Attach. c. 56. 5. c. 70.*

The breive of bondage perteines to the Schiref court. *lib. 1. c. 3. 4. c. 11.*

The forme of the proces thereof. *Quon. Attach. c. 56.*

He quha succumbis, & failzeis in probation of his awin libertie, sould be adjudged to his adversar, as his bondman, with all his gudes and geir. *lib. 2. c. 11. 14.*

Because all gudes of ane bondman, perteines to his maister, be reason he may have na thing as propertie. *lib. 1. c. 11. c. 12. 5.*

Ane objection of bondage objected, stayes the breive of mortancestrie. *lib. 3. c. 29. 4.*

Ane villaine, or servand, hes na heire, nor may not be ane heire to anie man.

Ane bondman, being fugitive fra his maister, may not be taken in ane publick faire. *leg. burg. c. 93.*

He quha deteines ane other mans servand, sall restore him, to his maister, with all his gudes, and with the double of the damage susteined by his maister. *stat. wilh. c. 8.*

Singular battell (duellum) may be, gif the heire of the defunct, denies the dowarie to the relict wife, of his prediceffour. lib. 2. c. 16. 47.

And als wa betwixt the overlord and his vassall, for service clamed by the overlord fra him. *lib. 2. c. 63. 12.*

Singular combat may be, betwixt the creditour and the pledges, or borghis denyand their borrowgang. *lib. 3. c. 1. 23.*

Betwixt him denies quha his seall, affixt to ane chartour, and the witness insert in the chartour. *lib. 3. c. 8. 10.*

And betwixt the buyer of ane thing quhilk is alledged thifteously stolen, and the warrant denyand him selfe to be warrant. *lib. 3. c. 12. 5.*

Be battell, ane thing may be proven to be lawfully bocht, lent, or otherwaies, lawfully acquired. *lib. 3. c. 13. 4.*

Be battell the sentence of the court may be defended: but not the record thereof. *lib. 3. c. 24. 3. 6.*

Battell may be betwixt the persewer and the defender, in the breive of mortancestrie. *lib. 3. c. 29. 3.*

*in Curiam Sancte Amonis
J. Crinis de Eboracresburg
lib. 2. c. 16. 47. aqua. A. quia
lib. 2. c. 12.*

The Table.

And betwixt the accuser and the defender, in the accusation of treason. *lib. 4. c. 1. 12.*

And anent the fraudfull concealing and hiding of ane tresour, or huir. *lib. 4. c. 4. 5.*

He quha is accused of Art, and part of thift, may defend him selfe by battell. *lib. 4. c. 14. 4.* like as he may doe, quha is accused of thift. *Quon. Attach. 12. 2.*

Singular battell hes not place, but in crimes capitall, or treasonable: or quhen the defender is suspect of the crime: or quhen the crime may not be otherwaies proven. *stat. Rob. 3. c. 16.*

The forme to wage battell. *lib. 2. c. 63. 12.*

The defender hes in his will to defend him self be singular battell, or be ane Affise. *Quon. Attach. c. 31. c. 61. lib. 4. c. 1. 13.*

And gif he chuses battell: first he sould wage the battell: thereafter he sould sweir, that his quarrell is just and honest. *Quon. Attach. c. 31.*

Battell may be waged in the Schirefs court: and thereafter may be transferred to the Kings court. *lib. 3. c. 29. 9.*

He quha refuses to fight in battell, after the samine is waged, is esteemed as convict of the crime. *lib. 4. c. 1. 14.*

He quha after the proclamation of the battell, speikes any thing: fall pay to the King twenty kye: And he quha puts to his hand, is in the Kings mercy, of life and limme. *Quon. Attach. c. 74.*

He quha provokes or appeales, and he quha is appealed, may not be reconceiled, without the Kings licence. *lib. 4. c. 1. 15.*

Lands tynt be reason of none comperance after that the battell is waged, can never be recovered. *Quon. Attach. c. 96.*

Gif the appealer is vincust, he is in the Kings mercy: And gif the defender is vincust, he and his heires are forsalted. *lib. 4. c. 1. in fin.*

Quhilk is true in battell committed in the crime of treason. But otherwaies gif the defender is overcome in battell, his pledges fall pay to the King nine kye, and ane (*colpindach*) and satisfies the challenger. *stat. Alex. c. 11.*

He may decline battell quha is thriescore zeires of age, or lamed, or mutilat in his body. *lib. 4. c. 3. leg. burg. c. 24.*

Religious men, Widowes, Clerks, and Prebendaries, are not compelled to fight in battell. *stat. Alex. c. 5.*

Singular battell may be remitted and relaxed, quhen it is fochtin and committed in the cause of adulterie: or be the law of *Clan Macduff*, or for blude drawin vnder the braith. *stat. Wilh. c. 27.*

Battell is not for thift, except the samine be *furtum manifestum*, that is taken with reid hand, hand haueand, or back berand. *Quon. Attach. c. 100.*

Quhat persones may fight personally, and quha may fight be champions. *stat. David. 2. c. 28.*

Sister succedes to hir brother, haueand na bairns of his body: nor brother, nor bairns descendand of the brother. And gif there be mae sisters nor ane, they all succeid equally. *lib. 2. c. 34.*

The

The sister germane is preferred to the half sister, in succession of the brother. *Quon. Attach. c. 89. vid. dochter.*

Skinnes being woll skinned, may not be bocht, but be brether of the Gild. *stat. Gild. c. 20.*

And may not be fauld, but to burgesfis. *stat. Wilh. c. 26.*

After Whitsonday, vntill Michaelmes. *stat. Gild. c. 36.*

Slauchter is clandestin, private, and quietly committed: otherwaies called murther. *vid. murther.* Or publick, quhilk is called simple slauchter. *lib. 4. c. 5. 6.*

The crime of slauchter perteines to the Schiref, quhen ane certaine accuser comperes: and it being delated be way of dittay, to the Justitiar. *lib. 1. c. 1. 6.*

Ane manslayer being lawfully attached, and not comperand at the fourt court, may be denounced rebell. *Quon. Attach. c. 59. stat. Rob. 2. c. 4.*

Ane man-slayer sould not be put to liberty vpon pledges. *lib. 4. c. 1. 10.* Except be the Kings command. *lib. 4. c. 5.*

But he quha is taken with hote blude, may not be repledged. *Quon. Attach. c. 39. lib. 4. c. 24.*

Slauchter committed be ane man for the revenge of the law, that is for Justice done vpon ane malefactour, is punissed. *lib. 4. c. 17.*

They quha commands slauchter to be done, or mainteines the slayer, are perjure, and sould be punissed. *Misc. 2. c. 14. 4.*

Barones may not make concorde anent slauchter, without the Kings licence. *Quon. Attach. c. 77.*

Barones, or their Baillies, may punish manslayers. *stat. Alex. c. 2. 6. stat. Rob. 2. c. 5.*

The King may gif ane remission for slauchter, quhilk prejudices not the party. *Quon. Attach. c. 18. stat. Alex. c. 2. 6. stat. David. 2. c. 44. c. 50. lib. 4. c. 17. 3.*

Because the manslayer sould not pleis the King, but also sould satisfie the party. *stat. Wilh. c. 4. c. 5. 4.*

The lands of ane manslayer being fugitive, and denounced rebell, perteines to the King, be the space of ane zeire and ane day: And thereafter, to the overlord, sa lang as the manslayer leues. *Quon. Attach. c. 18. mod. ten. cur. c. 39. stat. Rob. 3. c. 19. 3. stat. Rob. 2. c. 4. 5.*

And the manslayer being decessed, his righteous heire recovers all his lands fra the overlord. *lib. 4. c. 11. Quon. Attach. c. 48. 16. mod. ten. cur. c. 66.*

Ane manslayer may haue refuge, or flie to the girth, or sanctuarie. *stat. Alex. c. 6. stat. Rob. 2. c. 9.*

Ane furious or madde man, committand slauchter, the time of his furie, is excused, and sould not be punissed. *stat. 2. Rob. 1. c. 24.*

The paines of slauchter committed against the Kings peace, & peace of others. *lib. 4. c. 37.*

Slauchter of the overlord committed be his vassall. *vid. treason.*

The paine of slauchter generally is death, and confiscation of mouable gudes. *stat. Robert. 3. c. 44.*

The Table.

Soccoman (quha halds his lands in name of blensche of his overlord) haveand ane sonne onely, he fall succeid to all his fathers lands. *lib. 2. c. 26. c. 27.*

But gif he have mae sonnes nor ane, they all succeid to him equally. *lib. 2. c. 21.*

But the principall messuage is reserved to the first begotten sonne, by reason of his birth-right. *lib. 2. c. 27. 4.*

Of the keiping of the sonne of ane Soccoman. *vid. warde.*

Frie soccage, and Knights service, are opposed. *lib. 2. c. 27.*

Sonne is lawfull, quha is procreat in lawfull mariage. *lib. 2. c. 49.*

But ane sonne, or barne procreat betwixt twa persons before lawfull mariage, is not legitimat by the mariage following betwixt his parents. *lib. 2. c. 51. 3.*

The sonne succeides to all his faders lands. *lib. 2. c. 26. c. 27. Quon. Attach. c. 89.*

Suppose his Father be ane Soccoman, Knight, or Burges. *leg. burg. c. 25.*

But gif there be mae sonnes begotten of ane Soccoman, they all succeid equally: but gif their father is ane Knight, haldand his lands, by service of warde, and releive, the first begotten sonne onely succeids. *lib. 2. c. 21. c. 27.*

Divers sonnes to ane burges man, begotten vpon divers mothers, succeids respectiue to the lands conquered in their mothers time. *leg. burg. c. 26.*

The father haveand heritage may give na part thereof to his sonne begotten with ane woman, quhom thereafter he marries: or to his bastard sonne, without consent of his heire. *lib. 2. c. 19. 3. 5.*

The sonne excludes all the dochters in succession to their father. *lib. 2. c. 30.*

The eldest sonne being put in the fie of the land, in his fathers time, transmits the lands to his heires. *lib. 2. c. 33. 11.*

The sonne is oblissed be the fathers paction. *lib. 1. c. 31.*

Ane sonne being forisfamiliar, may be ane arbiter. *lib. 2. c. 3.*

He may be procuratour for his father, and his father for him. *lib. 3. c. 15. 9.*

When the sonne is made Knicht, his fathers men sould help and support him. *lib. 2. c. 73.*

Conforme to ane certaine and limitat quantitie. *stat. 2. Rob. 1. c. 18.*

Ane burges sonne, salang as he is in his fathers house, may bruke and joyse his fathers priviledges. *leg. burg. c. 16.*

The sonne tynes not his fathers heretage, albeit his father is accused of felonie, and before the dome pronounced, happens to deceis. *Quon. Attach. c. 98. vid. father.*

Sowter, or Schomaker, may not buy hydes to be tanned or barked, but onely sick, quhereof the hornes, and luggis, are of equall length and longitude. *leg. burg. c. 98.*

He

He may not be ane brother of the Gild. *leg. burg. c. 99.*

He may be accusit before the Chalmerlane. *Iter. Camer. c. 22.*

Soyters of Court, *sectatores curie*, before they be admitted, sould be examinat in thrie courts be the Iudge. *Quon. Attach. c. 36.*

Because they sould be sufficient. *mod. ten. cur. c. 67.*

They are vnlawit for their absence. *mod. ten. cur. c. 1.*

Lawfull essonzies are grantit to them. *mod. ten. cur. c. 54. Quon. Attach. c. 33.*

They sould not come to Court, except they be lawfullie summonit; bot they sould compeir at the heid Courts, not being summonit. *Quon. Attach. c. 33. 3. mod. ten. cur. c. 55.*

The recorde of the Court sould be pronuncit be the soyters. *Quon. Attach. c. 36.*

And sic like, they pronounce the decreit in the presence of the Iudge. *Quon. Attach. c. 35. c. 66. mod. ten. cur. c. 59.*

They sould trye, advise, and pronounce the wardes (*interlocutors*) of of court. *Quon. Attach. c. 35. 2.*

In their maisters courts, they may pley, answeir, and in other Courts they may repledge men to their maisters court. Bot for ane other man, they may not answeir without their maisters licence. *Quon. Attach. c. 15 mod. ten. cur. c. 35.*

Gif they be ignorant, they sould be informit be the Iudge. *Quon. Attach. c. 16. 5. mod. ten. cur. c. 37.*

Bot sould not be vnlawit for their ignorance. *Quon. Attach. c. 36. 4.*

They may remitt the difficill causes to the superiour Court to be their declarit. *Quon. Attach. c. 14. 3. mod. ten. cur. c. 34.*

The soyters are vnlawit, gif the doome given be them, happins to be falsified. *Quon. Attach. c. 13. 7.*

For soyt of Court na man may be distrenzied, bot conform to the tenour of his chartour. *stat. 2. Rob. 1. c. 2.*

Gif ane land perteine to many heretours, for the quhilk ane soyt only sould be given: He quha possessis the principall and chief pairt, sould make that soyt. *stat. 2. Rob. 1. c. 3.*

The proces for soyt of Court betwix the overlord and his vassall. *stat. 2 Rob. 1. c. 4. c. 5.*

Spoilzie, he quha is spuilzied of his possession, sould be first restorit. *stat. Rob. 3. c. 15 Vid. nouvelle disseine.*

Stallenger (ane *Cramer*) in the day of the market sould satisfie the Provest, for his stall, and place. *leg. burg. c. 40.*

He may be poindit be ane Burges. *leg. burg. c. 58. vid. lott.*

Stranger, sould not be harborit in any mans house, attour ane day, and ane nicht, except he finde ane pledge. *Quon. Attach. c. 63. leg. burg. c. 90.*

Strikes (*verbera*) the pley or complaint thereof pertaines to the Schirefs Court. *lib. 1. c. 3. 7.*

Summons, or citation, is 'ane exhibition and declaration of ane certaine day and place done to the partie to compeir ane certaine day. *Quon. Attach.*

The Table.

Attach. c. 2.

Execution of ane summons sould be done, be ane lawfull executour, before witnes; and sould be proven be the witnes, insert in the indor-sation, instantlie before he pas forth of the Court. *lib. 1. c. 6. 4.*

The executour sould declare and expone his awin name, and the name of his office, in the execution, or record of his summons.

And gif he be defectiue, or commit any fault in his office, he sall pay the expensis to the partie. *lib. 1. c. 6. mod. ten. cur. c. 5.*

He sould enter and present in Court, all attachments made be him, & sall pledges finde to him. *mod. ten. cur. c. 1.*

He sould verifie his summons and attachments. *Quon. Attach. c. 3. 3. mod. ten. cur. c. 3. lib. 1. c. 6. 4.*

Summons in the breive of richt, sould be made vpon the space of 15. dayes. *lib. 1. c. 6. 2. 6.*

He quha is anis summoned vpon thriescore, or vpon fourtie dayes, be reason of his absence forth of the Realme, or any other cause: thereafter sould be summoned in the proces, according to the common order and course of law.

And gif any man is first summoned, and thereafter passies to service (or forth of the Realme) he sould be summoned conforme to the common order of proces. *lib. 1. c. 8. 16.*

Gif ane pley is betwix twa vasselles anent any lands, quhilks are alled-ged to be halden of divers overlords, baith their overlords sould be summoned. *lib. 1. c. 24. lib. 3. c. 21. 12.*

He quha is summone^d, or wairned, *apud acta*, sould not be thereafter summoned. *lib. 3. c. 32. 6.*

The defender being anis summoned to heare the assise, sworn and ad-mitted, sould not be summoned thereafter. *lib. 3. c. 28. 4.*

Summons sould be made be Serjants, (or *Officiars*) of court, being so-leimnlie sworne. *Quon. Attach. c. 2. 5.*

And within burgh be the bedell, or Officiars of the burgh. *leg. burg. c. 112.*

Before witnes, and at the dwelling house of the party, quhere he makes his residence. *Quon. Attach. c. 3. 2. lib. 1. c. 6. 3.*

Clauses necssare in ane citation. *lib. 1. c. 6. 9. Quon. Attach. c. 3. 2. c. 64.*

The errour of the name, or of the quantitie of the thing conteined in the summons dois make the samine null, and of nane avail. *lib. 3. c. 26.*

In pleyes for lands and tenements, or for service awand forth of lands, or in shawing of halding, locht be the superiour against his vassall: the summons sould be made and execute vpon the ground of the landes. *Quon. Attach. c. 3. 4. mod. ten. cur. c. 2.*

Summons sould not be execut within time of night: that is, before the rising of the Sunne, and after the setting thereof. Nor vpon ane Sun-day, or hallie day. And sould be execute before witnes. *lib. 1. c. 6. 15. Quon. Attach. c. 28.*

Verifi-

Verification of summons. *mod. ten. cur. c. 7.*

Quhow soytours of court sould be summoned. *vid. soytour.*

Summons sould be proven in all courts, quherein the defender makes ane default. *Quon. Attach. c. 56.*

Sentence definitive, or interloquutour, may be given against him quha is lawfully summoned, and compeirs not. *mod. ten. cur. c. 2.*

In actions of lands and heretage, all parties sould be summoned by the Kings precept. *lib. 3. c. 25. Quon. Attach. c. 25. mod. ten. cur. c. 57.*

All men sould be summoned, before they be condemned. *stat. Rob. 3. c. 41.*

Swine (*porci*) gif they work vp ane mans medow, their Maister sall fill vp the holes made by them with quheit. *stat. Wilh. c. 24.*

Myself or corrupted swine, sould not be fauld. *stat. Rob. 3. c. 40.*

Swine within burgh, sould have ane hird, or be keiped in ane Stye, or swine cruif. *c. 89. c. 126.*

Swine within ane forest. *vid. forest lawes. vid. 6. c. 7.*

T.



TENEMENT fie, or heretage, lands, & siadry times, is called frie tenement. *leg. burg. c. 135. 9.*

Suppose frie tenement or franctenement, is called in the practik, lyfrent in latine *ususfructus*.

Lands given to any man with homage, descends to the heire of the donatar, and returns not to the giver. *lib. 2. c. 22. 12.*

Alienation of kirklands, or of lands vpon the deid bedde. *vid. alienation.*

Lands perteing to a naturall fule, may not be aneleid. *lib. 2. c. 46.*

Lands perteing to felones and rebels, are temporall escheit: And lands perteing to tratours, are perpetuall escheit. *Quon. Attach. c. 48. 16.*

The debtours lands may be comprised, and fauld for his debt. *stat. Alex. c. 24.*

Service for lands. *vid. service. vid. overlord.*

In lands given to the kirk for almous, there sould be na prises, nor o-ther thing taken to the Kings vse, except it can not be found in ane o-ther place. *stat. Alex. c. 20.*

Lands tynt by default, or not comperance of the partie, may be recovered. *stat. 2. Rob. 1. c. 16.*

Lands may be recognosced by the overlord. *vid. recognition.*

All men sould labour their awin land, and sould not invade, nor destroy other mens lands. *stat. David. 2. c. 10.*

Terce, or ane resonable thrid perteing to ane woman be deceis of hir husband, quhereof the breive perteines to the Schiref. *lib. 1. c. 3. lib. 2. c. 16. 37.*

The thrid of the lands perteing to the husband, the time quhen he marries his wife at the kirk dure, may be given to the wife. And mar may not be given, albeit les may be given. *lib. 2. c. 16. 7. 77.*

And

The Table.

And being assigned and given to ane woman, may not be eikid. *lib. 2. c. 16. 11. vid. dowarie.*

Testament may be made by any frioman, gif he pleis, quha is not burdened with debts. *lib. 2. c. 36.*

Ane woman may make ane testament, not being married. *lib. 2. c. 36. 6.*

And ane married woman may not make ane testament, without consent of hir husband. *lib. 2. c. 36. 7.*

He quha makes ane testament, may as he pleis, leave the best thing he hes to his overlord, or maister. *vid. Herrezelde.*

Ane gilde brother, sould leave in his testament, some thing to the gilde.

Gif ane not being gilde brother, leaves any thing to the gilde, he is receaved as ane brother. *stat. gild. c. 4.*

Ane testament is made only of moueable gudes, quhereof ane part perteines to the bairnes: ane other part to the wife: and the thrid part to the maker of it, to be frielie dispoed, as he pleis. *lib. 2. c. 37.*

And gif there is na barnis, the gudes sould be dividid in twa parts: betwixt the maker of it, and his wyfe. *lib. 2. c. 37. 2. 4. Leg. burg. c. 124.*

But na division sould be made of the gudes vntill the debts awand by the maker of it, be first deduced. *lib. 2. c. 39.*

And specially the debts awand to the king. *stat. with. c. 21. 3.*

Witnes in ane testament at the leist, sould be twa in number. *lib. 2. c. 38.*

Action anent the validitie of ane testament, or legacies left in it, perteines to the Ecclesiasticall jurisdiction. *lib. 1. c. 24. lib. 2. c. 38.*

The heire of the defunct sould fulfill and oblerue his testament. *lib. 2. c. 35.*

Strangers may frielie make ane testament. *stat. with. c. 30.*

Executours testamantar, are they quha are nominat in the testament by the maker thereof. Or they are datiuie, quha are decerned, & confirmed by ane ordinar Judge. *lib. 2. c. 38.*

They sould pay the debts awand by the defunct, and crave his debts fra his debtours. *stat. with. c. 22.*

And gif the gudes are not sufficient to pay his debts: the heire of the defunct sould pay them of his proper gudes and geir. *stat. 2. Rob. 1. c. 18. 3. 4.*

The executours sould pay to the King, all debts awand to him by the defunct: and confirme the testament of the rest of the gudes. *stat. with. c. 21. 2. 3.*

Theift, delated, and taken vp by dittay, sould be determed be ane assise before the Justitiar: otherwaies gif there be any certaine person quha accuses the theift, sould be tried before the Schiref. *lib. 1. c. 1. 7.*

And gif he quha is accused, is clenged by ane assise: he sall pas quyt, and frie: otherwaies gif he be filed, justice salbe execut vpon him. *stat. Alex. c. 7.*

Ane

Ane theif sould be imprisoned, and accused in the samine baronie, quhere he is taken. *Malc. 2. c. 9.*

His moveable gudes perteines to the Schiref: and his lands to his Lord. *lib. 2. c. 55. 16.*

But after his death his heire recovers his lands. *mod. ten. cur. c. 43. c. 66.*

The gudes of ane theif, perteines to his Maister or Lord. *Quon. Attach. c. 12. 5.*

Gif they be found within his lands. *stat. Alex. c. 2. 4.*

Specially gif the Lord hes power, to hald court of life and limme: otherwayes the theifes gudes perteines to the King. *mod. ten. cur. c. 32.*

He quha is defamed of theift, and hes not ane Maister, nor pledges, sould be punissed as ane convict, and proven theif. *lib. 4. c. 12. stat. Alex. c. 13. stat. David. 2. c. 17.*

Ane being fugitiue, and taken with the thing thifteously stollin, is punissed as ane proven theif. *lib. 4. c. 15.*

Ane theif taken with the theift, may not be slaine: but gif he is fugitiue, it is lesome to slay him. *lib. 4. c. 23.*

It is lesome to slay ane theif in time of nicht, and not in time of day. *stat. 2. Rob. 1. c. 30.*

He commits theift, quha resettis ane other mans wife, with hir husbands geir. *Quon. Attach. c. 85.*

Ane theif taken with the fange, sould be incontinent judged: or ellis imprisoned. *stat. David. 2. c. 2.*

Gif the theif eschew furth of the prison: the Maister of the prison sould sweir that he is innocent of his eschewing. *stat. 2. Rob. 1. c. 2. 6.*

The wife sould not be punissed for the theift committed be hir husband except the thing stollin, be found within her keyes, and possession. *Quon. Attach. c. 12. mod. sen. cur. c. 32. stat. Wilh. c. 19.*

Domestick servants, sould reveale the theift committed by their Maister: and siclike the concubine of the theif, sould doe the samine. *stat. Wilh. c. 19. 9.*

He commits theift, quha causes not ane wayf beast, to be lawfullie proclaimed. *Quon. Attach. c. 48. 14.*

Theifes may be punissed be Barones, & their Baillies. *stat. Alex. c. 2. 6.*

Borones may not make aggreance of theift, without the kings licence. *Quon. Attach. c. 77.*

In the accusation of theift, the skathes of the partie, may be modified by ane Affise. *Quon. Attach. c. 68.*

He quha sees the theif fleand away with the theift: sall sweir that he is not art, nor part of the theift. *lib. 4. c. 14.*

He quha is accused as art, and part of theift, may defend him selfe by battell. *lib. 4. c. 14. 4.*

He quha is accused of theift, may defend him self by ane Affise, or by battell. *Quon. Attach. c. 31. c. 61.*

The Table.

He is punisſed as ane proven theif, quha takes ane poynd in anie baronie, without licence of the Lord, and makes them not manifeſt. *ſtat. David. 2. c. 5.*

The principall theif ſould be judged before the reſetter. *Quon. Attach. c. 83.*

The reſetter of the theif, is puniſſed as the principal theif. *ſtat. Alex. c. 21.*

Silver thifteouſlie ſtollin, ſould be reſtored. *ſtat. Wilh. c. 14.*

Horſe ſtollin. *vid. horſe.*

The warants of ſtollin things, ſould compeir at certaine places. *lib. 1. c. 16. c. 17. ſtat. Wilh. c. 1. ſtat. Alex. c. 12.*

Ane Preiſt is not admitted to warand ſtollin things. *lib. 1. c. 19.*

The forme and order of the proces of theift. *Quon. Attach. c. 12. mod. ten. cur. c. 32.*

Ane theif falland down fra the gallowes, is free for that theift. *lib. 4. c. 18.*

The Wergelt, or theiftbote, of ane theife, is threttie kye. *lib. 4. c. 19.*

Ane theit being condemned, ſould not be redemed. *Quon. Attach. c. 42. mod. ten. cur. c. 46.*

He quha gives theiftbot for ane theif, is puniſſed as ane proven theif. *ſtat. 1. Rob. 1. c. 9.*

He quha redemes ane theif, with ane certaine number of kye, is puniſſed. *ſtat. David. 2. c. 1.*

And the theif quha is redemed, ſould be baniffed: and being thereafter apprehended, may be hanged. *ſtat. David. 2. c. 1. 5.*

Ane theif not taken with the fange, may purge and acquite him ſelfe be his eath, and twentie ſeven men, and thrie thanes. *lib. 4. c. 21.*

And gif he ſuccumbs and falles in his purgation, he is eſtemed as convict. *mod. ten. cur. c. 32.*

And is puniſhed as ane proven theif. *ſtat. David. 2. c. 4.*

Ane theif ſould not be hanged for ſa meikill meat as he may beare vpon his back in ane ſeck. *lib. 4. c. 16.*

Ane Burges being accuſed of thiſt be ane landward man, ſould purge himſelfe with his awin, and the eathes of ellevin men. *leg. burg. c. 28.*

Of ane theif quha is penitent, and ſles to the girth. *ſtat. Alexan. c. 36.*

The paine of ane theif within burgh, is divers, conforme to the diverſitie of the crime. *leg. burg. c. 121.*

He commits not thiſt quha vſes ane thing lent to him, after the time or farther then the place aggried. *lib. 3. c. 9. 5.*

Thiſt committed to pure folk, or waik and debill persons, is proven be the eath of the accuſer. *ſtat. David. 2. c. 13. 3.*

Or be ane aſſiſe. *ſtat. Alex. c. 5.*

Tocher-gude, maritagium, is that quhilk is given with the woman in reſpect of mariage, in latin, *Dos. lib. 2. 18. 1.*

Quhither it is lands or moveabill gudes. *lib. 2. c. 57. 2.*

And is of twa ſorts, the ane called frie, for the quhilk na ſervice nor homage

homage is made to the overlord, vntill the thrid heire. The other is subject to service, because it is given with reservation of service to the overlord. *lib.2. c.57.*

The Lord may seeke helpe fra his men, to the tocher of his dochter. *lib.2. c.73. stat.2. Rob.1. c.18.*

Actions anent tocher perteines to the Ecclesiasticall jurisdiction. *lib.2. c.59.3.*

Gif ane father have and mae dochters, gives ane part of his heretage to ane of them, in name of frie tochir: the samine part fall come in the division of the heretage. *stat. Rob.3. c.35.5.*

Treason or lese majestie, contrair the King, is punissed be forfaiture of the traitour, his death, and of all his gudes moveable, and vnmovable to the Kings vse. *Malc.2. c.12. lib.4. c.17. c.11. Quon. Attach. c.19.*

The crime of treason perteines to the Justitiar. *lib.1. c.15.*

Gif na man compeires to accuse, he quha is accused, or suspected, false attached to finde pledges, or is imprisoned: and quhen he is accused, he may vse lawfull essonzies. *lib.4. c.1.3. 11.*

The paine of prodicion, or treason of the vassall, against the overlord is the ryfsell of all the lands, quhilkis he haldis of that overlord perpetually. *Quon. Attach. c.19. mod. ten. cur. c.43.*

Proditours, or betrayers of their Lords, or Maisters, may flie to the girth. *stat. Alex. c.6.7.*

Trescur, or huird, being found by any man, and fraudfully conceiled is ane crime, and perteines to the Justitiar. *lib.1. c.15.*

Tresours found vnder the earth, quhereof the awners are not knawin, perteines to the King. *Quon. Attach. c.48.5. mod. ten. cur. c.60.*

Trone is institute for weying of woll. *stat. David.2. c.39.*

Drovers may be accused before the Chalmerlan. *Iter Camer. c.15.*

Tutour to the heire of ane Soccoman, may not analie the lands pertaining to the pupill: nor waist them, but keipe them to him, vntill he come to perfite age: and then he sould make compt to him, reservand to him self his necessair expenses. *stat.2. Rob.1. c.8.2.3.*

The tutour sould answer in judgement for the pupill. *leg. burg. c.85.*

In ane action of warrandice, quhen the pupill is called, his tutour sould be alswa called. *Quon. Attach. c.90.6. vid. warde.*

W.



ADDE, *vadium*, in Latine *pignus*, consists in things moveable, or immoveable. *lib.3. c.2.*

The creditour sould not abuse the moveable wadde: but sould keipe and preserue the samine. *lib.3. c.3.*

And restore the samine to the debtour, without any deterioration. *lib.3. c.4.3.*

Ane wadde is given to ane certaine day, or to na certaine day.

Gif it be given to ane certaine day: and ane paction or convention is betwixt the creditour and the debtour, that gif the debtour lowsis

The Table.

nocht, nor redemes the wadde before the day, the samine fall pertaine to the creditour. *lib. 3. c. 3. 4.*

And gif the wadde is given without any sic paction, to ane certaine day: in that case, the debtour may be compelled by the authoritie of ane Judge, to lowse and redeme the wadde. *lib. 3. c. 3. 6.*

And gif ane moveable thing is given in wadde without ane certaine day: it may be repeted, and asked againe at any time. *lib. 3. c. 4. 2.*

Quhen ane thing immoveable, as lands, is wadset, either convention and agreance is betwixt the debtour and the creditour, that the fruits and profits of the lands salbe raikned, and counted as ane part of the stock and principall summe, zeirly induring the time of the wadeset, quhilk forme of paction is lesome. *lib. 3. c. 5. 1. 2.*

Or it is convened, and agreid, that the saidis profits, and frutes fall not be compted as ane part of the principall summe: but that they fall be payed zeirly to him, quha hes the wadset: and also at the time of the redemption, the haill principall summe salbe payed to him. And this paction is vlesome, and vsurer. And the wadde given in this maner, is called ane dead wadde. *lib. 3. c. 5. 3. 6. 2. 5.*

The creditour may not deteine the wadde, after that the debt is payed to him. *lib. 3. c. 6. 1.*

Gif ane man hes lands wadset to him, and he affirmes that he hes them as heretage irredemable: and swa denies the wadset: he tynes the lands: and fall not recover his debt by reason of the wadset. *lib. 3. c. 35. 5.*

Lands wadset to ane day, or to na day, within burgh, may be redemed. *leg. burg. c. 84.*

watching and walking, in the time of nicht, within burgh, sould be carefullie keiped, by reason of danger and fire, and other inconvenients. *leg. burg. c. 86.*

warrant of ane thing craved in judgement, may be called by the defender findand ane pledge to persew him for warrandice. *lib. 1. c. 15. 5. 9.*

It is lesome to ane warrant to call his warant, vntill the fourt warant. *lib. 1. c. 23. lib. 3. c. 13.*

The thrid warant sould make answer. *Quon Attach. c. 10. 5.*

Thrie effonzies are given to the defender, quha callis his warant: and als many to the warant. *lib. 3. c. 15. 10.*

Gif the warant compeirs not at the fourt court: the samine order of proces salbe observed against him, as is keiped contrair the principall defender. *lib. 1. c. 21. 5.*

But na effonzies are granted to the warant, vntill he first compeir in the court. *stat. David. 2. c. 25.*

Gif ane man hes divers and findrie warants of ane thing, he may call any ane of them, as he pleis. *stat. 2. Rob. 1. c. 33. 3.*

Gif ane refusis to compeir, being called for warrandice, he sould be compelled to compeir. *lib. 1. c. 15. 13.*

Because his maister sould compell him, to do reson. *lib. 2. c. 17. 2. 3. 4. 5.*

Gif

Gif the warrant compeir judicially, and confessis the thing acclaimed, to perteine to him: by this confession, he quha called him, is made frie: And the warrant fall enter in pley, and defend contrair the principall persewer. *lib.1.c.15.7.*

Gif the warrant is *minor*, his predecessours Chartour sould be shawin to him. *stat.wilh.c.28.*

And quhen he comes to perfite age, he may seik restitution gif he is hurt. *stat.wilh.c.29.*

Quhen ane woman craves her dowarie, the warrant thereof, that is, hir husbands heire sould be called. *lib.2.c.16.36.45.54.c.59.4.*

Ane warrant may be called, in the petition of tochir gude. *lib.2.c.59.*

Gif ane thing bocht, is alledged to be stollin, and the warrant thereof compeir, and confes that the thing was his, and that he sauld it, he fall answer therefore in the pley: And gif he denies it, the pley salbe betwixt him, and the buyer of the thing. *lib.3.c.12.4.5.*

The warrant of ane thing thifteously stollin, sould be attached, vntill it be lawfully proven, that he bocht that thing. *lib.3.c.13.3.*

Ane warrant may be called for ane hors, quhilk is alledged to be thifteously stollin. *lib.4.c.20.*

Ane warrant may be called in the haym-halding of cattell. *Quon. Attach.c.10.2.mod.ten.cur.c.28.c.27.*

Gif ane pley is anent lands, quhither they be redemable, or irrede-mable, ane warrant may be called. *lib.3.c.35.8.*

And in the breive of mortancestrie. *stat.David.2.c.22.*

But in novell dissaisin ane warrant is not tareit vpon: but gif he is called, he sould answer: but he quha called him, salbe in the Kings mercie. *lib.3.c.36.4.stat.1.Rob.1.c.13.*

Ane *minor* called for warrandice, sould not answer, vntill he come to perfite age. *Quon. Attach.c.90.2.*

The wife being of perfite age, and her husband being *minor*, may be called as warrant. But she sould not be compelled to answer anent hir heretage, vntill hir husband be *major*. *Quon. Attach.c.38.*

Gif twa sisters are called as warrant, quhereof the ane is *minor*, & the other is *major*: nether of them fall answer, vntill she quha is *minor*, become *major*. *stat.2.Rob.1.c.17.*

He is oblissed as warrant, quha gives lands for homage, or for service. And he quha gives lands without service, or homage, is not oblissed to warrand the samine. *lib.2.c.67.*

He quha sells any thing, and his heires, are oblissed to the buyer and his heires, for warrandice. *lib.3.c.11.2.*

And generally the heires of all them quha disponis any thing to ane other man, sould warrand the samine, to them and their heires, to quhom it is disponed. *lib.2.c.24.*

The warrant being convict, and decernid to warrand, is oblissed to him, quha called him for ane competent excambion, and interesse. *lib.1.c.15.12.c.21.6.*

Gif the warrant deceis, the time of the dependence of the pley: his
S 3 heire

The Table.

heire may be called. *stat. 2. Rob. 1. c. 33.*

Gif the defender may not find his warrant, he sould restore the thing clamed, to the persouer: and action is reserved to him against his warrant. *lib. 1. c. 17. 9.*

The forme and order of proces, in the breive of warrandice. *Quon. Attach. c. 55.*

He quha is called as warrant, may not be repledged fra that court in the quhilk he is called to ane other court. *Quon. Attach. c. 10. 8.*

The King sould warrand lands given by him, with certaine methis and merchis. *Quon. Attach. c. 78. 3.*

Hee quha neglects to call his warrant: tynes his action against the warrant, and also the thing clamed. *lib. 1. c. 22. mod. ten. cur. c. 29.*

warde, custodie, or tutorie, of all their lands, and their heires all barones gave and granted to King *Malcolme* the secund. *Malc. 2. c. 1.*

He quha hes the warde of the heire, may dispone kirkis vacand, and reule, and dispon all the minors affaires, during the time of the ward. *lib. 2. c. 45. c. 42.*

Heires being minors, of lands halden by service, of warde and releif, are in the warde of their overlords, vntill they be of perfite age. *lib. 2. c. 41. c. 68.*

Ane woman being heretrice of sic lands, is in warde, vntill she be of perfite age, that is, fourtene zeares. And langer vntill she be married, with consent of her overlord. *lib. 2. c. 42. c. 48. c. 70.*

He quha hes the warde of the lands perteing to the heire: may not sell them perpetually: but onely induring the time of the warde. *lib. 2. c. 42. 4.*

The warde of lands haldin of sindrie overlords, perteines to ilk ane of them respectiue: but the keiping of the persone of the heire, and his mariage perteines to the eldest overlord. *lib. 2. c. 44.*

Gif ane overlord being *minor*, is in the Kings warde, wardelands haldin of him by his vassallis, fall also perteine to the King be reason of warde: and it is lesome to the King to dispone these lands, induring the time of the warde, of the overlord. *Quon. Attach. c. 18. mod. ten. cur. c. 41.*

The dowarie, or teree perteing to ane woman, fallis not vnder ward. *stat. Alex. c. 9.*

The custodie or tutorie of ane heire, sould not perteine to him, quha may succede as narrest heire to the heire. *lib. 2. c. 47.*

Gif the King gives simpliciter, the warde of any lands to ane man, he is not oblissed to make count in the cheker. *lib. 2. c. 45.*

The overlord may not crave the warde of the heire, vntill he first receave his homage. *lib. 2. c. 68.*

The King may give the warde of ane heire, to quhom he pleis. *lib. 2. c. 42.*

The overlord tynes the warde of the heire, gif he maries him in disparage. *Quon. Attach. c. 92.*

The custodie of the heire of ane Soccoman perteines to the kynsinen of

of the heire of the mother side : gif the heretage descends of the fathers side. And to the kinsman of the father side, gif the heretage descends fra the mother. *lib. 2. c. 47.*

The custodie of lands perteing to naturall fules, perteines to the King. *lib. 2. c. 46. vid. overlord.*

vassall should obey his eldest overlord, to quhom he or his prediceffours hes made the first faith and ligeance. *lib. 2. c. 44.*

And serve him against all other overlords. *lib. 2. c. 61.*

The vassall may be diheresed, gif he denies his service to his overlord. *lib. 2. c. 63. 13.*

The vassall should not trouble nor molest his overlord : he should serue the King against his overlord : he should doe na thing to the exheredation of his overlord : or to his dishonour, or hurt of his bodie. *lib. 2. c. 63.*

Quhow far the overlord is obliffed to his vassall, be reason of foveranitie : als far the vassall is obliffed to him be reason of homage. Reverence only excepted. *lib. 2. c. 67. and contrarieways.*

The vassall should contribute and help his overlord in paying of his re-
leive : in mariage of his dochter : and making his eldest sonne ane
Knight. *lib. 2. c. 73. 5. stat. 2. Rob. c. 18.*

The vassall may be distrenzeid by the overlord, for his releive, service,
or helps. *lib. 2. c. 73.*

The vassall should pley before his overlord, and before nane other. *lib. 3. c. 21. 8.*

The vassall may not be compelled to answer before his overlord, a-
nent his heretage, without the Kings precept. *lib. 1. c. 25. 12. Quon. At-
tach. c. 25. mod. ten. cur. c. 57.*

The vassall may disclame his overlord. *stat. Rob. 3. c. 18. vid. disclama-
tion.*

The vassall may not analie his lands haldin by him by Knights service,
without consent of his overlord. *stat. wilh. c. 31. vid. recognition.*

The vassall should schaw his halding to his overlord. *vid. chartour.*

The vassall should give soyt in his overlords court. *vid. soytours.*

He should make homage to him. *vid. homage.*

He should pay his releive. *vid. releive. vid. overlord.*

wayf beast, *pecus aberrans*, the forme and maner of proces to repeat the
wayf beast. *mod. ten. cur. c. 28.*

And gif there be na man found to avow the samine as his awin, it is
elcheit. *Quon. Attach. c. 48. 14. mod. ten. cur. c. 65.*

Any man may hayme hald his awin cattell, as hors, ox, quhilk is wan-
dered away fra him, by his awin aith, and twa witnesses. *Quon. Attach.
c. 10 mod. ten. cur. c. 2. 7.*

Quhilk should be done within the space of ane zeir, and ane day. *Quon.
Attach. c. 48. 4.*

wechts should be equall in buying and selling. *stat. David. 2. c. 14.*

Wechts should be examinat in the Chalmerlan air, before the Chal-
merlan. *Iter. Cam. c. 30.*

Wechts

The Table.

Wechts may be possessed by ilk burges in his house. *leg. burg. c. 52.*

Sindrie kinds of weichts. *stat. Rob. 3. c. 22.*

weirfair, armes sould not be sauld to the publick enemies of the Realme. *stat. 1. Rob. 1. c. 35.*

In time of *weirfair*, all men passed the age of saxtene zeires, & within the age of thriescore zeires, sould be readie to *weirfair*, with armes according to the valour of their gudes. *stat. Wilh. c. 23. stat. 1. Rob. 1. c. 27.*

Quha commits any fault, in ganging, remaining, or returning fra the Kings hoist, sould be punissed, conforme to the quantitie of the trespass. *stat. 1. Rob. 1. c. 4.*

All they quha comes to the Kings hoist, sould haue harrage, and cariage, and victuallis, or ellis silver for buying of meat and drink, and other necessaris. *stat. 1. Rob. 1. c. 5.*

They quha remaines fra the Kings hoist, are americiat by the King, albeit they be possessours of kirk-lands. *stat. 1. Rob. 1. c. 27. stat. Alex. c. 15.*

And they tine and amittis all their moveable gudes. *stat. 1. Rob. 1. c. 27.*

He quha is at the Kings hoist, may not be poynded. *leg. burg. c. 3. c. 36.*

Victuall may be bocht, and sauld by all the lieges of the Realme. *stat. Rob. 3. c. 8.*

Victuall brocht in by shippis, may not be bocht by landward men. *stat. gild. c. 46.*

The price of victuall, and of other things within burgh, sould be set downe by the Chalmerlane. *Iter. Cam. c. 33.*

Widow may be ane pledge and borch for any man: and may dispon frielic vpon hir gudes. *Quon. attach. c. 22.*

Justice sould be done to widowes sommerlie, without any pledges. *stat. Rob. 3. c. 5.*

Ane widow after the deceis of hir husband, fallis not in the power of her Maister: nor by fornication committed by hir in the time of hir widuitie tynes hir heretage. Albeit in hir mariage, she sould haue the consent of hir maister. *lib. 2. c. 49. 3.* Suppose she may not be compelled to marrie. *stat. Alex. c. 23.*

Gif any man deteines the terce or thrid, fra ane widow; he fall pay the damage and valour thereof, fra the time of the death of hir husband, and also fall be in the Kings mercie. *stat. Rob. 3. c. 20. stat. Alex. c. 22.*

Ane widow may not marie, without the consent of the warrant of hir dowarie. *lib. 2. c. 48. 11.*

Ane widow within burgh, sould not be compelled to watch. *leg. burg. c. 86.*

But gif she commonly buyes, and selles with Burgeses: she sould communicat with them in all things. *leg. burg. c. 107. vid. woman. vid. wife.*

Witnes

witnes in ane Testament, sould be at the least, twa in the number. *lib. 2. c. 38.*

He quha is perjure, and infame, may not be witnes. *lib. 4. c. 29. 3. stat. wilh. c. 11. 7.*

Many and sundrie persons may not be witnes. *stat. 2. Rob. 1. c. 37.*

The Serjant of ane court may not be witnes. *stat. 1. Rob. 1. c. 28.*

Ane pupill may not be compelled to be witnes. *leg. burg. c. 85.*

Witnes sould sweare. *leg. burg. c. 32.*

Witnes sould depone vpon sic thinges as they haue sene and heard.

Quon. Attach. c. 33. mod. ten. cur. c. 1. c. 7. c. 12.

Witnes may proue ane man to be ane pledge. *lib. 3. c. 1. 22.*

Be witnes ane summons may be verified to be lawfullie execut. *Quon.*

Attach. c. 3. mod. ten. cur. c. 7.

In haymhalding of cattell witnes are admitted. *Quon. Attach. c. 10.*

In the Judiciars Court, or before the Schiref, witnes may proue ane debt of fourtie shillings. *Quon. Attach. c. 81.*

The essonzie of infirmitie may be provin be twa witnes. *mod. ten. cur. c. 24.*

Gif ane certaine number of witnes is designed, it is not lesome to eik any mae. *Quon. Attach. c. 82. mod. ten. cur. c. 12.*

Probation of witnes is not granted to the Provest, or to the Serjant within burgh, against any man. *leg. burg. c. 82.*

Probation be writ, is admittid against probation be witnes. *vid. Probation. vid. Purgation.*

vilw vid. amerciament.

He sall giue to the King ane vnlaw of aucht kye, quha keips not his pledge skaithles. *lib. 1. c. 28.*

He sall giue ane vnlaw of twentie kye, to the King, quha speikes after that singular battell is proclamid. *Quon. Attach. c. 74.*

They quha remaines fra the Kings hoist, are vnlawed. *stat. 1. Alex. c. 15.*

The vnlaw of breaking of the Kings statute. *stat. 1. Rob. 1. c. 8. 7. c. 30. 3.*

Quhilk appeirs to conforme to the vnlaw of breaking of the Kings peace, quhilk is the Kings mercy. *vid. protection.*

Inferiour Courts vles the half of the vnlaw of the superiour Courts. *Malc. 2. c. 8. 7. 8.*

wooll to be littid may not be bocht, bot be Burgeffis. *leg. burg. c. 22. stat. wilh. c. 36.*

And being ane brother of the Gild. *stat. Gild. c. 20.*

Regraters or huksters may buy na wooll, bot only quhite wooll. *leg. burg. c. 73.*

Fleishers may not buy wooll. *stat. Gild. c. 25.*

Wooll sould be publicklye sauld in the market. *stat. Gild. c. 30.*

And it sould be sauld to the merchands of burrowes. *stat. VVilh. c. 36.*

Na man sould make wooll of skinnis, fra Whitsunday to Michalmes. *stat. Gild. c. 36.*

Woman may not be ane arbiter. *lib. 2. c. 4. 2.*

She

The Table.

She fould not make homage to hir overlord, but onely fidelitie. *lib. 2. c. 60. 3.*

But homage may be made to hir. *lib. 2. c. 66.*

Ane woman is never successour or heire to any man, with ane man, or male. Because in succession the male excludes the female. *lib. 2. c. 30.*

Ane woman being frie at hir awin will, as ane widow, may make ane testament. *lib. 2. c. 36. 3.*

Generally ane woman fould not be admitted to accuse in criminall causes. *lib. 4. c. 2.*

Except for the death of hir husband, and for injurie done to hir selfe. *lib. 4. c. 5. 8. 9.*

The merchete of the woman. *lib. 4. c. 31.*

Ane woman accused criminally, alledgand hir self to be with childe, fould be keiped, and inspection made of hir bodie, vntill she be delivered of hir child. *stat. 2. Rob. 1. c. 26.*

And ane woman affirmand that she is with child after the deceis of hir husband, fould be keiped. *stat. 2. Rob. 1. c. 27.*

wounds (plage) tuilzeis, and straikes (de plagis, melletis, et verberibus) all pleyes & complaints pertaines to the Schirets, gif the barones failzeis to do justice thereanent. *lib. 1. c. 3. 7.*

wrang, and vnlaw, that is injurie, and vnreason. *stat. 1. Rob. 1. c. 17. vid. causes.*

wreck of the sea, to quhom it pertaines. *stat. Alex. c. 25.*

Vsurer quha exerceed and vied vsurie and ocker all his life, vntill the time of his death, he and his heires, after his death may be disheressed: and all his gudes, moveable, and vnmoveable confiscat. *lib. 2. c. 54.*

Paction made anent payment of vsurie, is null. *lib. 1. c. 31. 3.*

Deid wadde is vsurie. *vid. wadde.*

Gif ane man lends any thing, as silver, to ane other: and receaves againe, mair nor he gave, he committis ocker, and vsurie. *lib. 3. c. 1. 5.*

Vsurie, or zeirlic rent for silver, is not payed by ane *minor*, vntill he be of perfite age: but he fould pay the principall summe, with the profitis awand the time of his prediceffour. *stat. Rob. 3. c. 21.*

Vtlaw. vid. felon. vid. fugitive.

The debter may be outlawed, and put to the horne, quha keipes not his pledge skaithles. *lib. 1. c. 18. 3.*

Ane manslayer being summoned, & compeirs not, may be vnlawed, and denounced rebell. *Quon. Attach. c. 53. 3.*

Speciallic gif he compeires not at the fourt court. *Quon. Attach. c. 163.*

He quha is the Kings vtlaw, and rebell, may be taken in publick faires. *leg. burg. c. 92.*

Ane vtlaw restored by the Kings grace, to peace, recovers not his lands, or gudes, given by the King, to ane other man. *lib. 2. c. 56.*

Gif

Gif the King gives his peace to ane vtlaw quha is ane manslaughter, that prejudges not the partie. *lib. 4. c. 17. 4.*

Wife may not contract, nor make paction, without the consent of her husband. *lib. 1. c. 30. 6.*

The wife should be reasonable indowed by her husband. *vid. dowaric.*

After the death of her husband, she may enter to the possession of her dowaric warned by her vmquhill husband, and vacant, that is possessed by na man: albeit all the dowaric is vacant, or ane part thereof. *lib. 2. c. 16. 18. 20.*

The husband gif hes aneheid his wifes dowaric without her consent, the woman may craue the samine fra the husbands heire. *lib. 2. c. 16.*

49. 51.

The wife may craue her dowaric quhilk is vacant, albeit it was not named by her husband. *lib. 2. c. 16. 4.*

She may remaine in the house of her vmquhill husband, by the space of fourtie dayes, vntill her dowaric be restored to her. *stat. Alex. c.*

22.

Ane woman haueand ane patronage of ane kirk, as ane pertinence of her dowaric, may present ane persone to it. *lib. 2. c. 16. 61. 67.*

Ane woman may tyne and amit her dowaric many wayes. *lib. 2. c. 17. lib. 2. c. 48. 9. Quon. Attach. c. 85. stat. 2. Rob. 1. c. 13.*

But ane woman tynes not her dowaric, gif her husband is accused for ane crime, and happens to deceis before the pronounciation of the dome. *Quon. Attach. c. 98.*

Ane wife may not make ane testament, without consent of her husband. *lib. 2. c. 36. 8.*

Sche may make her awin husband procuratour for her. *lib. 3. c. 15. 9.*

And should hald firme and stabill, all that he does. *lib. 3. c. 17.*

Sche may accuse any man for the death of her husband. *lib. 4. c. 5. 8.*

She may not be compelled to accuse hir husband, for theft, or for any other crime. *stat. Wilh. c. 19.*

She may not be accused for theft committed by hir husband: except the theft be found within hir keyes, and keiping. *Quon. Attach. c. 12. 7.*

mod. ten. cur. c. 32.

Sche may revoke the disposition of hir heretage, made by hir husband without her consent. *Quon. Attach. c. 20. mod. ten. cur. c.*

44.

The wife may not giue, nor sell any part of hir husbands gudes, aboue the valour of foure pennies. *Quon. Attach. c. 21.*

Ane wife may not be ane pledge, nor pley in judgement, for hir husband. *Quon. Attach. c. 22.*

Ane wife being major, haueand ane husband quha is minor, should not be compelled to enter in pley, anent her heretage. *Quon. Attach. c.*

38.

He

The Table.

He quha resettis ane other mans wife, with gudes, and geir perteing to her husband, commits theft. *Quon. Attach. c. 85. stat. 2. Rob. 1. c. 13.*

The wife sould obey her husband in all things, quhilke is not against God. *lib. 2. c. 16. 15.*

But she sould not obey him in great and grievous crimes. *stat. with. c. 19. 8.*

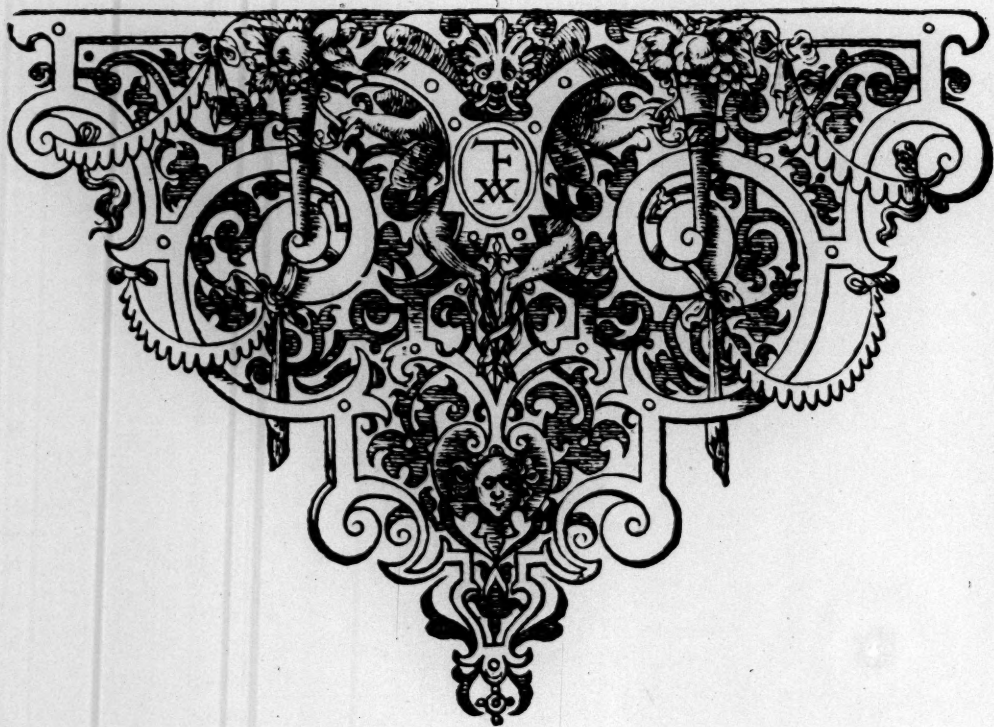
The wife may be corrected moderatly by hir husband. *stat. David. 2. c. 16. leg. burg. c. 131.*

The wife of ane burges, sould have the principall house. *leg. burg. c. 25.*

The wife of ane burges, quha hes had many wives, fall not remaine in the house perteing to the heire, attour the space of fourtie dayes, after the deceis of hir husband. *leg. burg. c. 26. vid. woman.*

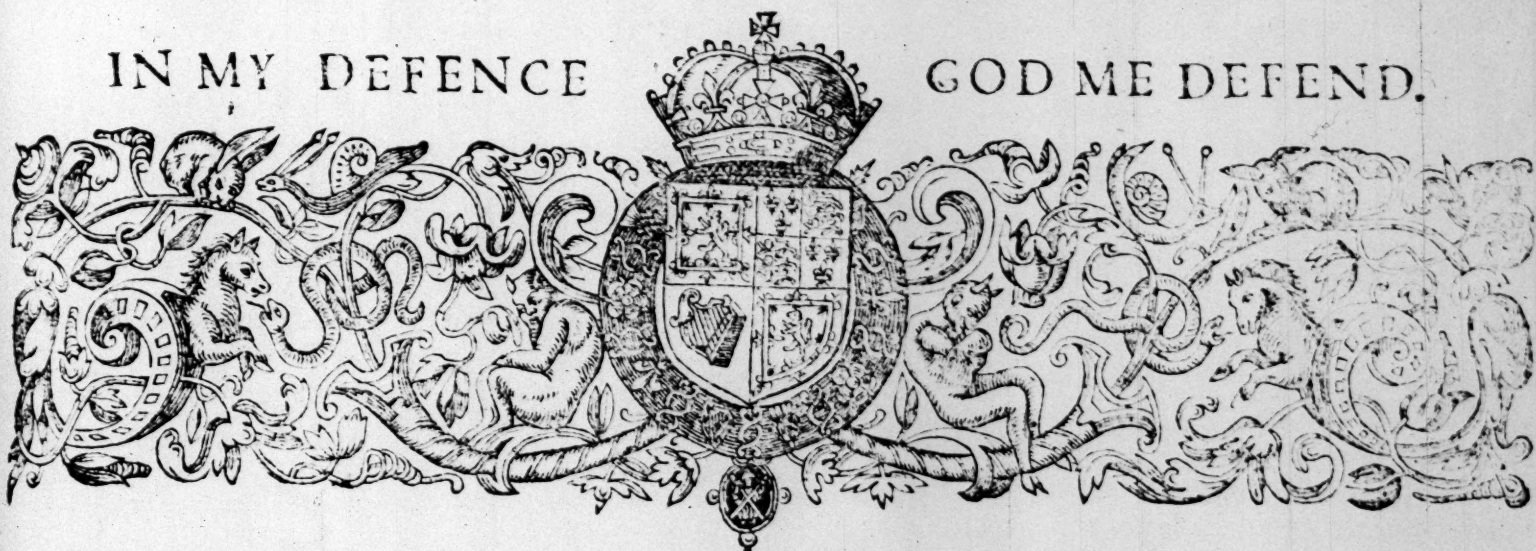
Wine tavernars may be accused before the Chalmerlane in his Chalmerlane aire, for findrie causes. *Iter. Camer. c. 18.*

FINIS.



IN MY DEFENCE

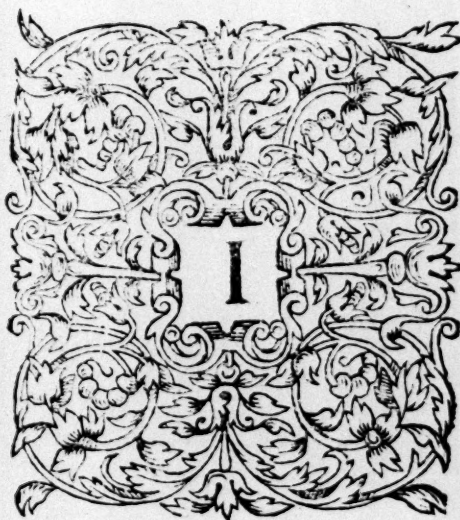
GOD ME DEFEND.



A NE SHORT FORME OF PROCES,

PRESENTLIE VSED, AND OBSERVED,
BEFORE THE LORDS OF COVNSELL,
and session.

OF JVDGES AND DIVISION OF
actions. CHAP. 1.



*I*N ALL ACTIONS, AND
pleyes, thrie persons are necellare,
Judex, the Judge: *Actor*, the per-
seuer: *Reus*, the defender. *lib. 2. c. 2.*
c. forus. 10. de verb. signif. extr.

2. The Judge hes diuers & sin-
drie jurisdictions.

3. Because some actions are cri-
minall, quhilk concernes life and
limme, or tynsell of any of them:

Or tuiches sic crimes, as may inder confiscation of the gudes,
pertaining to the trespassour, to be applied to the Kings vse. *lib. 1.*
c. 1. 2.

4. Quhilk criminall actions, sould be decided, and determi-
ned, before the Justitiar generall, or his deputes, as only Judges in
criminall causes, be inquisition of ane assise, of certaine loyel, and
gude men, quha best knawis the treuth, and veritie. *lib. 1. c. 1. lib.*
4. c. 5. 5. stat. Alex. c. 2.

5. Some actions are Ecclesiasticall, and in time of papistrie,
and of the vsurped authoritie of the Pape, pertained to the jurif-
T diction

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dictiō of kirkmen, *in curia Christianitatis*, sic as of testaments, legacies, mariage, divorcement, and some civill actions of debts, & others, quhilkis are affected with ane aith, or with ane promise to be proven be ane aith. *lib.1.c.2. lib.2.c.39.6 c.50.c.59. lib.3.c.7.*

6. Otherwaies, all civill actions, that hes not *fidei, vel juramenti interpositionem*, are civill, and profane: and therefore perteines not to the Ecclesiasticall jurisdiction. *lib.3.c.7.3.*

7. Last, some actions are civill, concerning lands, debts, or pecuniall penalties, to be applied to the vse of the partie haue- and entres: quhilk actions perteines to the Schiref, Earles, Lords, Barons, & to Provests, & Baillies of Burghis. *lib.1.c.1.2.c.3.c.4.c.5.*

8. And to the Lords of counsell and session, as competent, & supreme Judges be their first institution, and erectiō, and priviledges granted to them, be king *James* the first. *Anno 1532.* confirmed be the Pape 1534. and ratified in Parliament the 17. day of May, 1537. And specially giue and to them power, to make statutes, and ordinances, for expedition, and execution of Justice: quhilkis priviledges and liberties, are ratified and confirmed in divers parliaments, and specially be *Jac.6.parl.18.c.18.*

9. Of the quhilk forme, and order of proces in civill actions, before the Lords, these notes & observations may be observed.

THE PARTS OF ANE PROCES. CHAP. 2.

ALl processis led, and deduced before the Lords, hes three parts: The first, is the summons: The second, is litiſcontestation: The thrid, is the sentence definitiue.

OF THE SUMMONS. CHAP. 3.

THe summons, or libell, sould containe these speciall heads, and parts: first the name of the Judge, at quhais command the summons is raised, and directed.

2. The name of the persewer, at quhais instance, the defender is charged, and summoned.

3. The name of the defender, quha is summoned.

4. The cause, and matter, for the quhilk the summons is raised, and the defender challenged.

5. The day, & time, at the quhilk the defender sould cōpeir.

6. The place quhere the court is haldin, in the quhilk the defender sould compeir. *lib.1.c.6.8. Jac.1.parl.9.c.122. Quon. Attach.c.64.l.5.C.quomod.et quand. Iudex.*

EXECV-

EXECUTION OF THE SUMMONS.

CHAP. 4.

ALL summons in civill actions, should be execut against the defender personally apprehended, or at his dwelling place, or vpon the ground of the lands debatable. *Quon. Attach. c. 3. mod. ten. cur. c. 2. Authent. offeratur. C. de liti. contest.*

2. Personall citation is, quhen the defender is summoned at the persewers instance, be ane officiar of armes, or be ane Schiref in that part, personally apprehended, and ane copie delivered to him, before twa witnes.

3. Summons at the dwelling place is, quhilk is execut, at the place quhere the defender makes daylie residence, with his wife, barnes, house, and family. *Nam uniuscujusq; domus, et familia, ubi esse intelligitur, ubi ejus uxor habitat. Jac. 5. parl. 6. c. 75. l. 1. §. 1. et ibi Bartol. ff. de liber. agnoscend.*

4. Summons vpon the ground of the lands in controversie, is vsed in perambulations, comprisings of lands, shawing of halldings, recognitions, and in sic other actions, quhilkis are reall, concerning the propertie of lands, or heretable service aucht theretore. *mod. ten. cur. c. 2. quon. attach. c. 3. 4.*

5. But quhen any man is swna summoned *super fundo terrarum*, intimation of the summons should be made to him, personally, or at his dwelling place, before the day of comperance, conforme to the daylie practick. *quon. attach. c. 25. lib. 3. c. 25.*

6. Gif any man before his departing furth of the Realme, is lawfully summoned, & he thereafter depart, furth of the Realme: it is not necessair in leading, and deducing of the proces against him, to summon him vpon the warning of thriescore dayes: but only vpon premonition of sa many dayes, as gif he had remaned within the Realme.

7. But gif he was departed furth of the Realme, before he was summoned: he should be summoned vpon 60. of dayes, for the first terme: And in all other termes of comperance in the proces, he should be summoned, according to the common curse, and order of law. *lib. 1. c. 8. 24. Mar. Regis. parl. 6. c. 32.*

8. The summons should containe the cause, quherefore the defender is challenged, & the defender should be certified therof, that he being lawfully certiorat, may have perfite knowlege of the action intended against him. *lib. 1. c. 6. 11.*

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9. Ane reasonable day sould be assigned to the defender, to compeir, quhilk in all summons peremptour, of all actions custumable to come before the King and his counsell, is abbridged to twenty ane dayes. *Jac. 3. parl. 1. c. 6.*

10. But in actions of recent spulzie quhere the sūmons is raised be him quha is spulzeid, within 15. dayes after the cōmitting of the spulzie, against the committer thereof, the samine summons may be execut vpon fiftene dayes. *Jac. 4. parl. 6. c. 65.*

11. In all summons execut vpon 21. dayes, or shorter space, either the day of the execution of the summons, or the day of the comperance of the defender, sould be frie, & sould not be counted in the number of the dayes prescribed be the law. *lib. 1. c. 8. 12.*

12. All officers, or Schirefs in that part, quha summons any party sould deliver, or affix ane copie of the letters, vpon the dure of the party summoned: conform to the order of summoning of all persons in civill actions prescribed be *Iac. 5. parl. 6. c. 75.*

13. Quhilk copies of summoned and letters, sould be subscribed be the officiar executour thereof. *Jac. 6. parl. 12. c. 139.*

14. All Mairis, & officers, als well of sic, as in that part, quha executes the kings letters, and charges, or the precepts of Shirefs, Stewards, or Baillies, fall haue ane signet: and in it graved the first letter of their name, or surname: or some other thing, that salbe vniversally knawin, to be their signet: with the quhilk they fall signet all letters, and precepts execut be them. And fall mak ane record, or abridgement of their execution of the summons containing the forme, and maner thereof: And the names of the witnes, quha were present, the time of the execution. The quhilk sould be stamped be them: otherwayes they may be deprived of their office; and the execution makes na faith. *Jac. 3. parl. 5. c. 32. Jac. 5. parl. 6. c. 74.*

15. And because the said abridgment is written vpon the back of the summons (*in dorso summonitionis*) it is therefore called, indorsation. *Stat. David. 2. c. 18.* Like as in the canon Law is called *Citatio*, and sould be made in writ. *c. quoniam .11. verb. citationes. de probat. extr.*

THE SUMMONS OF CONTINUATION.

CHAP. 5.

TO the effect the partie may be better certified, the Lords vses to direct twa summons, for the day of comperance contened in

in the first summons, being bygane; the summons is called in the Tolbuith, and put vnder continuation, in absence of the defender. And ane other day is assigned, to the quhilk he is ordained to be summoned at the persewers instance. Vpon the quhilk ordinance, ane judiciall act is made, and the famine being subscribed be the Clerk of Register, the secund summons is raised therevpon. And the defender is ordained to be summoned, with certification, and he compeir not, the secund day of comperance, to defend for him self, in the cause; the Lords will proceed, and do justice, quhither he compeir, or not, as affaires of law. *l. in peremptorio. 71. ff. de Judic. l. 2. C. quomod. et quando iudex.*

2. This secund summons is peremptour, and is vsed in sic actions quhen the libell requires lawfull probation, and the persewer vles na probation of the first summons instantlie at the bar, and is called, summons of continuation, because be the famine, the paincipall summons, and cause, is continewed, and delayed to ane certaine day, or secund terme, or time of comperance.

3. The famine summons, sould be execut, in the famine manner, and forme, as the first summons, against the defender, personally, or at his dwelling place: within ane shorter time, or space, nor twentie ane dayes, sic as sex dayes, or other space of time, langer or shorter, conforme to the distance of the place, quhere the defender dwells, and makes his residence. *c. quoniam. 11. et ibi gl. verb. dilationes. de probat. extr.*

OF THE PERSEVVER ABSENT, AND the defender present. CHAP. 6.

QWhen the persewer comperes not to persew his action intended behim: the day of comperance, to the quhilk the defender is summoned, being bygane: the defender comperand personally, or be his procuratours, may produce in judgement the copie of the summons delivered to him, quhen he was summoned; And declare that he was summoned to ane certaine day bygane, be the persewer, to haue defended in sic ane cause. And because the persewer, nor nane in his name, compered to persew him, he being readie to make answer: he may protest, that na proces be led, and deduced against him, in that action, vntill he be of new warned, and summoned be the persewer: And his expenses payed to him, quhilk he hes made, be reason of the sum-

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mons execut against him, or of his comperance, or otherwaies in that cause or pley. *Quon. Attach. c.6. c.58.* The quhilk protestation the Lords vses to receaue, and admit. *Read Jac. 4. parl. 3. c.39. & Authent. qui semel. C. quomod. et quand. Iudex.*

OF THE DEFENDER ABSENT, AND the persewer present. CHAP. 7.

QWhen the defender compeirs not, nor na procuratour in his name, to defend for him: the persewer may produce the principall summons rased at his instance, dewly execut, & indorsat, and desire proces thervpon; quhilk sould be granted to him: and ane day, or terme of probation, salbe assigned to him, for proving of his libell, and summons, gif neid beis: and to warne the partie defender, to that day to heare probation led, and deduced. *Quon. Attach. c.6. c.58. mod. ten. cur. c.9. c.24. Jac. 4. parl. 3. c.30. l.3. C. quomod. et quand. Iudex.*

2. Otherwaies, gif the libell is founded, *Super his que constunt in iure*, swa that probation thereof is not necessar: the Judge may pronounce the sentence, and decreit definitiue, in favours of the persewer, conforme to his libell.

OF THE PERSEWER, AND DEFENDER comperand. CHAP. 8.

GIf baith the persewer, and the defender comperes in judgement; and the persewer refuse to produce the principal summons; the defender may seik protestation against him, be production of the copie of the summons, as gif the persewer were absent, as said is.

2. Quhilk protestation, the persewer may stop, and stay be production of the principall summons, dewly execut, & indorsat. And the samine being produced, the defender may aske inspection of the libell, & sight of the peices of the proces, sic as the principall summons, the execution and indorsation therof, with the persewers titill, be vertue of the quhilk, he persewes his libell, and action, and quhervpon the libell is founded.

3. Gif the libell is funded vpon na titill, or writ, nevertheles the defender sould haue sight, and inspection of the summons, & executions thereof, statut be the Lords, 14. *Augusti. 1590.*

4. Quhilk inspection of the peices, and writs, of the proces, sould not be denied to the defender, *quia actor debet edere actionem reo, ut is deliberet, utrum velit cedere, an iudicio contendere.*

l. i.

l. 1. ff. de edend. l. 1. l. 4. et tot. tit. C. de edend.

5. And swa the peices sould be delivered be the persewer, to the defender, quhilkis he may keip in his possession, be the space of 48. houres: within the quhilk time, he may advise with his friends and counsailours, and be resolved, quhither he wil desist, or compeir, & defend in the cause. And therefore this time is called *inducie deliberatorie*, because in this meane time, the pley ceases, and staves: and trewis are taken betwixt the parties. *lib. 1. c. 11. c. ult. 3. quæst. 3. per totum. c. 2. de dilationib. extr.*

6. The quhilk priviledge, & space of time, is not granted to the persewer, *quia unicuiq; est liberum agere, vel non agere*. And swa the persewer sould be well advised, before he intend his action: and after the day of cōperance, na time of advisement sould be granted to him, to the hurt, or delay of the defender. *l. 6. de tempor. in integr. restit. l. 5. de dol. mal. l. unic. C. ut nemo invit. ager. vel accusar. cogat. c. inducie. §. ei vero. 3. q. 3.*

OF PROCURATORS. CHAP. 9.

PROcuratours or advocates, may compeir, and procure in all civill actions, for the persewer in persewing, or for the defender in his defence. *lib. 3. c. 15.*

2. They sould be admitted be the Lords. And nane sould be admitted, but men expert, and qualified, and sic men, quha hes procured, & travelled before inferiour Judges, the full space of thrie zeires. And thereafter gives ane sufficient pruf, of their qualification, and reports the inferiour Judges testimoniall therevpon. Statut be the Lords. 8. *Augusti. 1588. 14. Augusti. 1590.*

3. Advocates in the time of their admission, and zeirly, salbe sworn to execut their office of advocation, diligently, and trewlie. And quhow soone they vnderstand their clients cause, for quhom they procure, to be unjust, or wrangous, that they fall incontinent leife the samine: and desist fra all further persuit, or defence. Statut be the Lords. 13. *Junij. 1537.*

4. Na procuratour sould ingyrr him self, to come to the bar, to procure in any cause, without authentick letters of procuratorie, made and granted be him, for quhom he speiks, & procures. And that he will abide at the samine, as ane trew mandat. Or ellis the procuratours, fall haue authentick extracts, furth of the bukes of counsell, berand them to be constitut procuratours, subscribed be the Clerk of Register or his deputies: to the quhilk faith salbe given, as to ane lawfull constitution. Statut be the Lords. 13. *Junij. 1537.*

5. All

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5. All Procuratours shoulde be modest at the Bar, alsowell in presence of the Lords, as in reasoning of their causes modestlie, baith in the inner and vtter houses. And shoulde not propone vaine or frivoll exceptions, dilatoirs, or peremptoirs, quhilk are contrait to the practique, consuetude, or law of the Realme. Statute be the Lords. 25. Octob. 1577.

6. The persewer compeirand be his procuratour, and funds his summons or libel, vpon anie titill in writt, shoulde produce the samine in the beginning of the pley, for instruction of his libell, gif the samine be requyred be the defender, albeit the samine titill is produced be him in ane other proces, before the samine Judge. And gif the persewer refuses to doe the samine, the defender shuld be absolved fra that summons.

7. Gif the defender compeirand, founds his exception vpon any titill or richt in writt, he shoulde not be compelled to produce the samine to the persewer, the time of the proponing of the exception. Bot it is sufficient to produce the samine, at the terme alligned to him, for proving of the exception. And before that time, the defender shoulde not be compelled to giue to the persewer the inspection, or coppie of his richt, or titill, *quia non tenetur edere sua instrumenta, suo adversario, ad fundandam ipsius intentionem. l. 4. C. de Edend.*

8. And therefore the Lords vses to reserue to the persewer, all his iust and lawfull defenses, and objections, *Contra producenda;* quhilk he sall please to propone against the said writt, or any other writtes, quhen they sall happen to be produced be the defender, *in termino probatorio*, for proving of his exception proponed be him, and admitted to his probation.

THE CALLING OF ANE WARANT.

CHAP. 10.

CONforme to the auld law, and practique, it was lesome to the defenders to call their warant, of that thing, quherea-
nent they were challenged, vntill the fourt warant, and in the
meane time the first and principall cause did cease, and sleip, vntil
all the foure warants were discutted. *lib. 1. c. 15. c. 23.* The Lords
hes abrogat that langsome, tedious, and sumptucus forme of
proces, and for the shorter and mair easie administration of ju-
stice, quhen the defender desires to call his warant of that thing,
quhilk

quhilk is clamed fra him, they proceid, and dois justice, in the principall cause: and admittis not the warant in that instance: But reserues action to the defender against his warant, to persew him, quhen, and quhow sone he pleis, be summons to be called vpon twentie ane dayes warning, but diet, or table.

2. And the partie defender in the principall cause, sould denunce the pley to his warant, and intimat to him the dependance thereof, to the effect, that the warant, gif he pleis, may concur with the defender, and defend with him in the cause against the persewer: otherwayes gif he makes na denunciation in lawfull time, and the warant declare and shaw ane relevant exception, quherebe he micht haue defended in the said cause: the defender tynes his warant, and the warant *est tutus exceptione litis non denunciata. l. emptor. 8. l. si permutacionis. 29. C. de evictionib. c. ult. et ibi gl. de empt. et vendit. extr. l. si rem. 29. et ibi gl. verb. definitur. l. herennius. 63. ff. de evictionib.*

THE ORDER OF PROPONING OF exceptions. CHAP. II.

THe defender may pas fra his comperance: and gif he pleis, he may suffer the summons to pas to probation against him self, for his not comperance. *lib. 1. c. 6. 5.*

2. Or he may compeir personally, or be his procuratours, & propone all his exceptions, and vse his lawfull defenses.

3. And it is to wit, that all exceptions declinatours against the Judge, sould be first proponed before dilatour, or peremptour exceptions. *c. quoniam 11. et ibi gl. verb. exceptiones. de probat. extr.*

4. And gif the partie defender propone any dilatour, and ask, or desire any interloquutour therupon: he sould not be hard afterward, to propone any exception declinatour, or recusatour against the Judge, albeit be proponing of the dilatour, he protest for all his lawfull defenses. Because conforme to the rule of the Law, *primus actus iudicij, est iudicis approbatorius. l. ult. et ibi gl. C. de exceptionib.*

5. As gif the partie desires the Judge, to purge him selfe of partiall counsell, and the Judge at his desire, makes his purgation: he therebe is vnderstand to haue admitted, and approved him, to be Iudge competent. And therefore may not decline
his

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his jurisdiction.

6. Two kind of exceptions are competent against ane Judge, the ane is called, exception of incompetencie: quhen the defender alledges the Judge to be incompetent, & that the action perteynes not to his jurisdiction, be reason of his persone, as gif he is excommunicat; or in respect of the cause. As quhen ane criminall cause is perfewed before ane civill, or Ecclesiastical Judge. Or be reason of the persones pledand, that is, the persewer, or defender. *Quon. Attach. c. ult. l. ult. ff. de jurisd. om. Judic. l. ult. C. de Judic.*

7. The other exception, is called exception of suspition, quhen the defender in ane action pertaining to the jurisdiction of the Judge, alledges that he can not be Judge, because he is partiall, or suipect in the cause. *Quon. Attach. c. 13. c. 16. mod. ten. cur. c. 33. Jac. 3. parl. 5. c. 26.*

8. *Exceptio incompetencie*, may be objected against all Judges within this Realme, as Lords of the countell, and session, and all inferiour, or other Judges, criminall, Ecclesiastical, or civill. Because na Judge may sit, or judge in ane cause quhilk perteynes not to his jurisdiction. *l. ult. ff. de jurisd. om. Jud. l. 1. et tot. tit. C. si a non compet. judic.*

9. *Exceptio suspitionis*, may be proponed, & objected, against all & quhatsoever Judges of quhatsoever jurisdiction, except only the Lords of the session: for be their first institution, nane of them, may be removed, in any action, or cause, pertaining to their jurisdiction, be reason of any alledged suspition, or partialtie, gif they be their aith, judicially purge them selte of partiall counsell.

10. Nevertheles, ane exception of suspition, is competent against the Lords of session, conforme to the new act of parliament, quherebe it is statut, and ordained, that na Lord of the session, salbe Judge in any action pertaining to their father, son, or brother. *Jac. 6. parl. 14. c. 212. vid. Authent. si contigerit. C. de Iudic. et c. cum speciali. 61. de appellat. extr.*

11. The defender sould propone his exceptions against the persewer, and his persone, alledgand, *quod non habet personam standi in iudicio*: because he is rebell, and at the Kings horne, or excommunicat, &c.

12. After the exceptions contrair the persewer, the defender sould

ould propone his exceptions against the titill of the persewer, *et contra litis ingressum*, alledge and that he ould not be compelled to defend, or enter in pley against him, be reason of the titill produced be him, becaule the samine is null of the Law. The quhilk exception of nullitie against the persewer's title, may be many in number, be reason of the diversitie of titills, quhilk ane persewer may vse, in persewing his action, and libell.

13. Thereafter the defender ould propone, and alledge his exceptions against the libell, and specially in the first, his dilatoires against the relevancie thereof, as gif the libell or summons is blobbed, or rased in suspect places, that is to say, in the name, or surname of the persewer, or of the defender, and the name of the land, or of the cause, vpon the quhilk, the summons is rased, and purchased, Or in the date. *Iac. 1. parl. 9. c. 113.*

14. Last of all, he ould propone his exceptions peremptours *in ipsa causa*, sic as he may gudelie of the Law, and practique, to elide, and take away the persewer's action.

15. After that the libell is admitted to probation, and ane terme is assigned, for proving thereof, the defender ould not be heard to propone any exception, or defence. Because liti's contestation is made be admission of the libell to probation, and swa stops, and stayes all defences to be proponed thereafter, except the samine be emergent, or of new come and to knowledge.

DEFINITION, AND DIVISION of exceptions.

CHAP. 12.

Exceptio definitur actionis exclusio: for like as the persute, and action, perteines to the persewer, and is intended be him, against the defender: swa the exception is competent to the defender, quhere be he may defend him self, against the persewer, and take away, elid, and exclude his action, clame, and petition, either *dilatorie*, to ane certaine day; or *peremptorie*, and perpetuallic for ever. *l. 2. ff. de exceptionib.*

2. Exceptions may be divided in three kindes, diclinatours, or recusatours against the Judge, dilatouris, and peremptours.

3. But

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3. But because exceptions declinatours, may be comprehended vnder dilatours, and are of the like nature, and effect: all exceptions may be divided generally in twa sorts, that is, dilatours, and peremptours. *d.l.2.l.3.ff. de exceptionib.*

EXCEPTIONS DILATOVS. CHAP. 13.

ANe exception is called *dilatoria*, *a differendo*, because the nature and effect thereof is, to differ, and to delay, the action and clame of the persewer, to ane certaine day and time, and dois not take away the samine perpetually.

2. And therefore it is called ane exception temporall, because it stayes and stops the intention of the persewer, for ane certaine space of time. And swa is helpfull to the defender, to obtaine absolution to him, for that time onely, *et ab illa instantia Iudicij*: and not perpetuallie in all time comming. *d.l.2.ff. de exceptionib.*

3. As for ane example, I am oblissed to pay to *Titius* the sum of ane hundreth pounds, at Whitsonday next cumes. Gif *Titius* calls and persewes me for payment of the said summe, at any time before Whitsonday, I may alledge dilatorie, that I should be absolved fra that persute, because the terme of payment, that is, Whitsonday is not come, *et ante diem vel terminum solutionis, debitum peti non potest, et dies adiicitur obligationi in favorem debitoris*. This exception is called dilatour, because it delayes the payment of the debt, onlie to Whitsonday, quhilk is the terme of payment; and takes not away the debt it self: because I will be compelled to make payment of the said summe, to *Titius*, after Whitsonday.

4. All dilatour exceptions should be proponed before any peremptour exception: for gif the defender propones ane peremptour, he will not be hard thereafter to propone ane dilatour. *Quia exceptio peremptoria perimit, et quasi occidit causam: dilatoria vero eam continuat, et ad tempus differt; et naturaliter fieri non potest; ut id quod peremptum, et mortuum est per exceptionem peremptoriam, possit differri, vel continuari ad tempus, et quasi reviviscere per exceptionem dilatoriam.*

5. All dilatours may be alledged be the defender at ane time, gif he pleis swa to doe. Alwayes he should propone them all, at twa times: for the Lords grants onlie to the defender, twa answers

sweres or interloquutours vpon dilatours proponed be him. *Jac. 5. parl. 5. c. 67.*

6. Exceptions dilatours, at quhat time soever they are proponed, sould be instantly verified, and na terme sould be assigned for proving thereof. Stat. be the Lords. 13. *Junij. 1532. vid. l. exception. 19. C. de probat.*

7. Gif ane dilatour proponed, and admitted to be proven, is not proven, the proponer thereof salbe halden to pay the expenses of the pley, incontinent to be modified be the Lords. And salbe na wayes permitted to propone, or vse any mae dilatours in that instance. Statut be the Lords. 13. *Junij. 1537.*

EXCEPTIONS PEREMPTOVS.

CHAP. 14.

EXceptions are called peremptours, *a perimendo, quia causam perimunt, et prorsus extinguunt, ut nunquam possit postea resciscitari. d. l. 2. ff. de exceptionib.*

2. They are also called perpetuall: For ane peremptour exception proponed, and lawfully proven, causes the proponer thereof, to be perpetually, and simpliciter absolved, swa that he may never be persewed in that action, quhilk is elidit be the exception, in any time thereafter.

3. As for ane example, I oblish me to pay to *Titius* at Whitsonday next comes, the summe of ane hundreth pounds. The terme of Whitsonday being bygane, he persewes me, to make payment to him of the said summe. I propone against him, ane exception of payment, and alledges, that he is alreadie payed, and satisfied. This exception is peremptour, *quia solutione ejus quod debetur, tollitur omnis obligatio.* And swa gif I prove the payment made to him, I sould be simpliciter absolved; and may never be craued thereafter, for the said summe.

4. Exceptions peremptour sould be proponed before litis contestation, conforme to the practique of this Realme. And the proponer hes libertie, and friedome, to propone them all, at ane time: or at severall and divers times. And vpon ilk exception peremptour, proponed severally, he may desire ane severall answer, and interloquutour of the Lords.

5. As ane exception may take away the libell: swa the persewer may fortifie his libell, be ane replie: and thereby

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clide, and take away the exception. And therefore the reply is called *pars libelli*, ane part of the libell: or exceptions, *exceptionis. exceptio* 22. ff. *de exceptionib.*

6. And likewaies the defender quha propones the exception, for fortification therof, may propone ane duply, against the libell and reply. And swa *exceptio excludit actorem, ejusq³, actionem: Replicatio reum: contra replicationem datur triplicatio et contra triplicationem, quaaruplicatio.* &c. l. 2. ff. *de exceptionib.*

OF LITIS-CONTESTATION.

CHAP. 15.

THe second part of ane proces, is litiscontestation, quhilk be the practick of this Realme is vnderstand to be made, quhen in judgment the defender denies the libell, and ane terme is granted for proving therof.

2. Or quhen the libell only, or the libell and ane reply is admitted be the Judge to be proven be the persewer, and ane day, or terme is assigned to him, for proving therof.

3. Or litiscontestation is, quhen ane exception only, or ane exception with ane duply, is admitted to the probation of the defender, and ane terme is assigned to that effect.

4. After litiscontestation, the defender may not vse, nor propone exceptions against the persewer, as said is. Because generally after litiscontestation, the partie to quhom, or in quhais favours it is granted, sould lawfully prove that, quhilk is admitted to his probation. Or ellis, gif he fallzies, in proving thereof, he tynes the cause, be the common rule of the Law, *actore non probante, reus absolvitur.*

OF PROBATION. CHAP. 16.

THe persewer sould prove his libell, or clame, not being elidit be ane relevant exception. And the defender sould prove his exception proponed be him, and admitted as relevant, and lawfull against the libell. l. 1. ff. *de exceptionib. stat. 2. Rob. 1. c. 23.*

2. Gif ane terme of probation is assigned be the Judge, to the persewer, or to the defender, to giue in, and to produce, all writs quhilk either of them, will vse for probation of their intent, with all his defences, quhilk he will vse in the cause: And he produce
not

not all at the samine terme: he sall not be heard to vse any further probation thereafter. *Mar. Regin. parl. 7. c. 63.*

3. Otherwaies gif na sic terme is alligned, wreittis, instruments, or other evidents, may be produced before the conclusion of the cause.

4. Gif the defender denies the persewers libell, or petition, and the persewer refuse to prove the samine: the defender sould be simpliciter absolved, fra the petition of the persewer.

5. Divers and findrie exceptions, or other defences peremptour, quherof any ane is sufficient to obtein victorie in the cause, being admitted to probation, to be proven severally, gif the partie proponer therof, prove any ane of them sufficiently: decreit sould be given in his favours; albeit he faillie in probation of the remanent exceptions, or defences. *Quia quando aliqua sunt penitus separata, uno probato, reliqua probare non est necesse. l. neq. 10. et ibi Bald. C. de probat.*

6. Gif any of the parties elects, and chuses ane forme, & kind of probation: he may not pas fra the samine, and vse ane other maner of probation. As gif he offers him to prove be witnes: he sould not be permitted to refuse fra witnes, to prove the samine be the eath of the partie, or otherwaies. Or gif he tuke to prove be the eath of the partie, he may not prove the samine be witnes.

7. In actions of spulzie gif the defender propones ane peremptour exception, against the libell: and proves not the samine sufficiently: condemnatour salbe given against him, conforme to the libell. Because in this case, it is not necessarie to the persewer to prove his libell, or any part therof, be reason all the libell is vnderstand to be proven, in respect of the defenders falsie, not provand his exception.

DIVERS KINDS OF PROBATION.

CHAP. 17.

THrie kindes of probation are vsed commonly in civill causes conforme to the Law of this Realme. *lib. 3. c. 6. c. finem. 5. et ibi gl. in verb. funda verit. de dol. et contum. extr.*

2. The first is be the eath of the partie, or be his confession, quhilk is equivalent to ane eath, or to ane decreit of ane Judge. And specially *confessio judicialis acceptata per partem, probat contra confitentem, quia nemo presumitur aliquid confiteri in sui ipsius prejudicium, et lesionem. Præterea inter simplicem loquelam, et ju-*

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ramentum Deus non facit differentiam. And swa ane confession proves sufficiently against the maker thereof, anent all things quhilkis are confessed. *lib.1.c.14.2.l.publica.16. in fin. et ibi Bartol. ff.deposit.l.13.C.de non numer.pecun.l.1.l.5.ff.de jurejur.stat. David. 2.c.6.*

3. The second kind of probation, is be writ, as be Chartour, saising retour, obligation, acquittance. *l.in exercendis. 15. C.de fid. instr.lib.1.c.25.12.lib.3.c.8.* And decreitis, and evidents extracted furth of publick Register. *Authen.ad hac.C.de fid.instr.l.gesta.6. C.de execution.rei judic.* The thrid is, be witnes vnsuspect, and their depositions.

OF THE EATH DE CALVMNIA, SEV *de malitia.* CHAP. 18.

THrie kinds of eathes are commonly vsed in proces, that is, *juramentum calumnie, juramentum in litem, et juramentum veritatis*, quhilk is also called, *juramentum decisorium litis.*

2. The eath *de calumnia*, is not properly ane forme, or kinde of probation, as the other twa kinds of eaths are. Nevertheles, because it is commonly vsed in judgement, it is necessare to vnderstand, quhat it is, and quhen, and be quhom it sould be asked, and taken.

3. This kind of aith is invented, and vsed to stop the malice, and wickednes of men, to pley, or to vex, or trouble their neighbours, maliciously, contrair equitie, and law. *l.1.C.de jurejur. propt.calumn.dand.*

4. And therefore it is lesome to the defender, to desire the persewer, to giue his eath *de calumnia*, gif he hes, or beleeves that he hes just cause, to persew his libell, as it is libelled, and concealed be him. *l.2.C.de jurejur. propt.calumn.dand.*

5. Likewaies it is lesome to the persewer, to desire the eath of the defender, gif he hes just cause to propone his exceptions, or any ane against him. *Authent.principales.C.d.tit.*

6. This eath being asked in judgement, sould be given be the procuratours, of the persewer, or of the defender, quha may be compelled to sweir *in animam constituentis.* viz: that he hes just cause to persew the libell, or to propone the exception for the defender, as he is informed: and that it appeares to him, that the information given to him, be his client, is trew. *Jac. 1. parl. 9. c. 175.l.rem.12.C.de judic. Authent.principales. C.de jurejur. propt.cal. dand.*

7. This

7. This aith may be craved, & asked be either of the parties, or be their procuratours. And sould be given, and made in any part of the pley, in the beginning, middis, or ending thereof, before the giving of the decreit.

8. And albeit the procuratour hes given his aith : nevertheles the partie for quhom he procures, may be compelled to give his aith. And contrariewaies. *l. 2. C. de jurejur. propt. calum. dand.*

9. And gif the persewer, or defender is present at the barre, and in judgement, he may be commanded and charged, at the desire of his contrair partie, to giue his aith instantly.

10. Gif he is not present, at the desire of the other partie, letters of summons may be direct, to charge him to compeir to give his aith : quhilkis letters, sould be execut against him, be ane messenger, or officiar of Armes, personally apprehended : And be nane other, nor na other wayes.

11. And he being swa lawfully warned, he sould compeir personally in judgement, and give his aith, and not be his procuratour, to that effect.

12. And gif he fallies to compeir : or compeires, and refuses to make faith, he is halden *pro confesso*. *Quia de jure, si actor non vult jurare de calumnia cadit ab actione: Reus vero nolens jurare, habetur pro confesso. l. 2. §. quod si actor. C. de jurejur. propt. calum. dand. c. ult. de Juram. calum. extr.*

13. Alwaies the persewer, or the defender, being required to sweir, vpon the libell, or exception be the law, he is not oblissed, to giue his aith vpon everie particular head, and poynt of the libell, or exception.

14. Because the persewer is only oblissed to sweir, that he hes, or that he helceves, that he hes just cause, to persew the libell intended be him, as it is libelled. Or to denie the exception, or allegiance proponed against him. *l. 2. §. si autem. et ibi gl. C. de jurejur. propt. calum.*

15. And the defender sould sweir, that he hes just cause, to deny the libel as it is intended, & libelled agains him: or to propone the allegiance, & exception, agains the persewers libel, & clame.

OF THE AITH OF VERITIE. CHAP. 19.

Albeit ther be thrie kinds of aithis, cōmonly vsed in judgmēt, twa therof hes the full force, & effect of probation : quherof

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this is the first, called the aith of veritie, or *decisorium litis*, because it decides and puts ane finall end to the pley, and controversie betwixt the persewer, and the defender. *l. 1. l. 2. ff. de jurejur. l. 1. et tot. tit. C. de rebus credit. et jurejur.*

2. As quhen the persewer referres the debt acclaimed be him to the aith of the defender, quhither it be justly awand or not. In this case, the defender will be compelled to sweir, that the debt is awand, or not awand: or to refer the samine againe, to the aith of the persewer, or to make payment of the debt. *Quia in hoc casu, Reus cogitur jurare, aut juramentum referri aëtori, aut debitum solvere. stat. David. 2. c. 6. lib. 3. c. 7. l. delata. 9. et ibi Bartol. C. de jurejur. l. manifeste. 38. l. jursurandum. 34. §. ait. ff. de jurejur.*

3. Quhen the defender referris the debt, to the aith of the persewer, and the persewer refuses to sweir: the defender sould be absolved *simpliciter. l. generaliter. 12. C. de jurejur.*

4. And gif the persewer gives his aith, the defender sould be condemned, or absolved, conforme to the tenour of the aith, made be the persewer. *Nam jurejurando causa cognita, res deceditur: et ex jurejurando nascitur actio, vel exceptio ad similitudinem judicati. l. 3. l. aëtori, 8. ff. de jurejur.*

DE JURAMENTO IN LITEM.

C H A P. 20.

THe second kinde of aith vsed in forme of probation, is called *juramentum in litem*, the quhilk is vsed in certain actions *propter dolum malum Rei, vel ejus continuaciam, qui jussui judicis non obtemperat. l. 1. l. 2. ff. de Julie. jurand.*

2. As in actions of spuilzie of moueable gudes, violentlie spulzeid, against order of Law. In this case, he quha is spulzeid, may prove be witnes, that the committer of the spulzie, intromitted with ane certaine part of the gudes, and geir libelled, and alledged spulzeid. Quhilk being proven, the valour and estimation of all the gudes contained in the libell, is referred to the aith of the persewer. And sva he is made Judge of the price of the gudes spulzeid from him, and of the damage quhilk he hes suffered throw the spoliation thereof.

3. And sva this kind of probation is mixt, partly be witnes, and partly be the aith of the persewer. Because the intromission with the gudes, as said is, is proven be witnes. And the quantitie, and

and estimation of the gudes spulzeid, is referred, and proven, be the perfewers aith, quhilk is permitted be the Judge to be done, *in odium spoliantis*.

4. But the Lords, for findrie considerations, and circumstances, moving them, may moderat, and modifie this aith given be the perfewer, and reduce it to ane certaine quantitie, *Ne in immensum juretur, quia est juramentum affectionis: ideoq; a iudice temperari potest: adeo ut index minoris condemnare possit, quam juratum sit, l. 4. §. Jurare. ff. de in lit. jurand. l. Sancunus. 13. C. de Judic. Nam ut ait Bartol. in d. l. 4. iudex non redarguit hic quenquam de perjurio (quod solum Deum habet ultorem. l. 2. ff. de jurejur.) sed de inordinata affectione.*

OF PROBATION BE VVREIT.

CHAP. 21.

THe second kinde of probation, is called *per scripta*, as quhen the perfewer proves his libell, or reply, be ane instrument of saising, ane chartour, ane contract, or other authentick writ, or evident. Or quhen the defender proves his exception, or duplie, be sic writ, and evidently as said is. *lib. 1. c. 25. 12. quon. attach. c. 81.*

2. It is lesome to him, quha sould prove any thing be writ: to produce the wredits, quhilkis he will vse in *modum probationis*, at any time before the conclusion of the cause, specially gif na terme is assigned to him, for that effect. *Mar. Regin. parl. 7. c. 63. c. cum dilectus. 9. de fid. instr. extr.*

3. And gif it be his awin proper evident, he sould produce the samine without the calling of any other partie, or persone, for exhibition or production thereof.

4. And gif the evident, or writ, perteines not to him, quha sould produce the samine; or gif the samine perteines to him, and is in ane other mans possession, *ex probabili causa*: then incident diligence sould be granted to him, and at his instance, against all heavers and possessours of the saidis evidents, quha hes had, or fraudfully put them away, to compeir at ane certaine day, sic as the day of probation assigned in the principall cause, and to produce the saidis evidents, for proving of his libell, exception, &c. *Mar. Regin. parl. 7. c. 63.*

5. And gif the partie defender in the incident diligence, compeires,

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peirs, and denyesthe hauing of the writs claimed fra him, or propones any relevant exception, quherby he sould not be compelled to exhibit or produce the samine; then ane ordinar forme of proces sould be led and deduced against him, be the persewer of the incident diligence, for proueing of the writtes and hauing thereof against him.

6. And in the meane time of the dependance of the incident diligence, the principall cause sould sleip, and cease, vntill the incident proces be first disculled and ended.

7. Because the partie prevailand, and victorious in the incident proces of diligence, he will likewise prevale in the principall cause. And gif he faillies in the incident, he will likewise succumbe and failzie in the principall: *Quia principalis caussa, dependet ex futuro eventu caussae incidentis.*

8. This proces of incident diligence for production of writs vsed in *modum probationis*, is not commonlie granted to all parties; bot to them quha protests for the samine, at the time of *Litis contestation*, quhen ane terme is assigned to him, for probation of his libell, his exception, or other defence.

OF PROBATION BE WITNES.

CHAP. 22.

THe thrid kinde of probation maist comōlie is vsed be witnes.

2. Quhilk forme of probation, and generallie all other probation, sould be receaved after *Litis contestation*. Except the witnes be speciall command of the Lords, happin to be receaved, sworne and admitted, *ad perpetuam rei memoriam*, and the partie warned to that effect. *Authent. sed et si. C. de testib. c. quoniam. 5. ut lit. non contest. extra. c. significavit. de testib. extr.*

3. The witnes sould be in number, at the least twa concordand and aggreand together, *quia unus testis, est nullus testis, & testis singularis, quia non habet contestem in sua depositione, non probat. l. ubi. 12. ff. de testib. lib. 2. c. 38. la. 6. parl. 6. c. 80. c. ceterum. 23. de testib. extra. 2. q. 5.*

4. Witnes are vnderstand to be receaved and admitted, quhē they are lawfullie sworne in judgement, in presence of the partie, or his procuratour against quhom they are produced, or in absence of the partie, lawfullie summoned to heare them produced.

5. For

5. For gif the partie nor the procuratour compeirs not in the cause, the partie sould be summoned to heare the witnes receaved. *l. 51. quando 15. C. de testib.*

6. Bot gif he compeirit personallie, or be his procuratour, & speciallie the time of *litis contestation*; it is not necessarie to summond him to heare the witnes receaved, *Quia in hoc casu intelligitur citatus apud acta, ideoque non debet amplius citari. lib. 3. c. 32. 6.*

7. All witnes being lawfullie summoned to compeir and depone the trueth anent the probation of the libell, exception, reply, or other defence; & not compeirand or refusand to compeir, may be compelled to compeir and depone. *c. 1. & tot. tit. de testi. cogend. extr. l. 55. quando. 15. C. de testib.*

8. And swa all witnes, not compeirand the first day sould be summoned to compeir the secund day, vnder the paine of rebellion. And not compeirand at the secund terme, they sould be charged to compeir at the thrid terme, vnder the paine of Rebellion, with certification, they sall be denounced rebelles, like as presentlie they may be put to the horne. And last of all, they being rebelles, and not compeirand, the Lords gives and grants letters of caption, as sall be said heirafter. Statute be the Lords 13. Junij. 1537. And 25. Octob. 1577. *c. in causis 15. c. significaverunt 38. de testib. extra. Authent. at. qui. C. de probat.*

9. Gif the witnes compeirs not at the first terme, haueand na lawfull impediment, albeit they compeir at any time thereafter; the partie quha produces them, sall not be compelled to pay their expenses; they being summoned at the first terme of compeirance, and ane riket given to them personally charged, or affixed at their dwelling places, or delivered to their wives, or servants, to compeir to beir witnes, in sic ane cause, at sic ane day. And swa indorsed in the Officers execution of the saids letters. Statute be the Lords 13. Junij 1537. *vid. l. 10. & ibi Dd. C. de testib.*

10. In all causes, for proving of the libell be witnes, the lords admits onely twentie foure witnes; that is, aucht for ilk ane of the thrie termes, statute be the Lords 4. Junij 1586. *quest. 2. & 3. per rationem l. 1. § quanquam ff. de testib.*

11. And for proving of exceptions, or replies, likewise twentie foure witnes sould be receaved, quha all sould be summoned at the first terme, and time of probation. For ane terme onely is granted

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granted to that effect.

12. The deposition of the witnes sould be stampit and sealit be the Lords examinatours, with seale and walx, and sould not be opened at the secund or thrid examination, bot sould be written vpon severall paper, and all to ly closed vntill the advysing of the proces. Statute be the Lords 25. *October 1577. c. venerabili. 52. de testib. extr.*

13. At the time of the receaving and admission of the witnes, the partie producer of the witnes, sould take a new terme of probation instantlie at the bar, before the witnes be examinat, & fall not differ or delay, quhill the morne.

PROBATION OF THE LIBELL BE

witnes.

C H A P. 23.

QWhen the libell onely is admitted to probation thrie sundry and divers termes of probation thereof, is granted to the persewer. Swa he may summond some witnes to compeir at the first terme; & some others divers from them, at the secund terme; and some others diverse from them at the thrid terme of probation.

2. At the thrid terme, he sould summone all them quhom he will vse as witnes in that cause. Because after the terme, it is not permitted to him to summone any mae witnes, then were summoned be him of before at the first terme, secund or thrid.

3. Gif the witnes quha was summoned of before compeires not, at nane of the saids thrie termes; they sould be denounced rebelles, and put to the horne, and all their moveable sould be inbrocht to the Kings vse, be reason of their rebellion. And mair-over the Lords directis letters of caption to the Shiref, vnder quhō they dwell, or to other ordinar magistrats, as they fall think maist expedient, to take and apprehend the witnes quha are denunciit Rebelles.

4. Albeit thrie termes are granted to the persewer, and diligence, as said is, for probation of his libell: zit na diligence sould be granted to him, bot against sic witnes, as were lawfullie summoned, at ane of the saids thrie termes, and were contumaces, & compeired not.

PRO.

PROBATION OF ANE EXCEPTION

be witnes. CHAP. 24.

Like as the perseuer fould prove his libell, swa the defender fould prove, and verifie his exception: because *qui dicit, debet probare, et prater ea qui de lucro contendit, debet subire onus probationis. l. 1. et ibi gl. ff. de probationib.*

2. The forme and proving of exception be witnes, is divers, and disconforme to the maner of the probation of the libell. Because in the probation of the libell, thrie findrie termes are granted as said is. Bot for proving of the exception, ane terme onlie is assigned.

3. At the quhilk terme, the defender quha fould prove the exception, fould summon all the witnes, quhilk he will vse for proving of the samine.

4. And gif all the witnes compeir in *termino probatorio*, that is sufficient: and the cause will be halden as concluded: gif na other probation is necessarlie required, be writ or otherwaies.

5. And gif they compeir not in *termino probatorio*, that is, at the terme assigned for probation, letters, and summons of diligence, are granted to the defender to compell them to compeir and to depone, as said is of before.

PROBATION OF THE REPLY

be witnes. CHAP. 25.

Like as ane exception is proponed be the defender against the libell, swa the reply is proponed be the perseuer against the exception, for fortification of his libell; and swa the reply is vnderstand to be ane parte of the libell. *l. 2. ff. de exceptionib. l. non exceptionibus 10. C. eod. tit.*

2. Nevertheles, ane reply fould be proven in the samine maner as the exception is proven, and not as the libell is proven: that is, be assignation of ane terme of probation onely, for summoning of witnes, and be sic number of witnes, as is receaved for probation of the exception; that is, twentie foure. And swa albeit ane exception, and ane reply are different, zit ane forme of probation is ordained for proving of them baith.

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CIRCUMDUCTION OF THE TERME of probation. CHAP. 26.

ALl probation be eath, be writ, or be witnes, ceases, and ends betwa wayes: the first is, circumduction of the terme: the other is, conclusion of the cause.

2. Circumduction of the terme, is quhen ane terme is assigned be the Judge, to the persewer for probation of the libel only, or of the libell, and the reply, and he compeires not personally, nor be his procuratour: nor produces na probation, or diligence. In this case, the defender may circumduce the terme of probation, in respect of the negligence of the persewer: in sic sort that the persewer *cadit causa*, and na farther probation is granted to him: conforme to the common rule, *Actore non probante, reus absolvitur. mod. ten. cur. c. 22. c. 23. stat. 1. Rob. 1. c. 30.*

3. Likewaies quhen ane exception onely, or ane exception with ane duply, is admitted to probation of the defender: and ane certaine terme is assigned for probation thereof: gif he failzies to produce sufficient probation, or diligence, at the said terme: the persewer may circumduce the terme against him, be reason of his negligence: swa that the defender sall not be hard, to vse any farder probation, in any time thereafter. *Mar. Regin. parl. 7. c. 63.* conforme to the common rule, *Reo non probante, Actor absolvitur.*

4. And swa ane terme being assigned to any partie, for probation of the libell, exception, reply, or duply, gif he does na diligence in deducing of his probation, according to the desire of the terme, the day & terme being bygane: heould not be hard, to vse any farder probation, in the samine cause. *Quia terminus probatorius est peremptorius, et in hoc casu, exclusivus probationum.*

CONCLVSION OF THE CAUSE.

CHAP. 27.

SEcondly, all probation ends, and ceases be conclusion of the cause, *quia conclusio causae, est exclusio non solum exceptionum, sed etiam probationum.* Statut be the Lords. 14. Augusti. 1590. c. *quoniam. 11. de probat. extr.*

2. The cause is vnderstand to be concluded, quhen the persewer, or the defender, to quhom the probation is granted, hes vfed

vſed all probation, quhilk be the law he will, or may vſe in the cauſe, and judicially renounces all forder probation. *c. cum delectus. 9. et ibi gl. in verb. conclusum. de fid. instr. extr.*

3. Or gif he refuses to renunce probation, or keipes ſilence, and the other partie againſt quhom the probation was granted, in judgement proteſts, that the cauſe be halden as concluded: the quhilk proteſtation being admitted be the Judge, the cauſe is concluded: ſwa that therafter, na thing reſts to be done, but that the Judge adviſe the cauſe, and decerne, quether that quhilk was admitted to probation, is ſufficientlie proven, or not proven.

4. At the time of the concluſion of the cauſe, the partie againſt quhom the probation is vſed, may deſire, and proteſt, that it ſalbe leſome to him to propone, and vſe his lawfull objections, *contra producta*, that is, againſt all the wreits, quhilkis are produced againſt him, *in modum probationis. Mar. parl. 7. c. 63.*

5. But na objection againſt the depoſition of witnes is permitted to the partie, againſt quhom they are produced: for their depoſitions ſould not be ſchawin to him, but ſould be kept cloſe, and ſecreit to the Judge onlie. *Quia testimoniorum publicatio non est in usu.*

6. Na proces albeit the ſamine be concluded, ſould be adviſed nor decreit pronounced, vntill the act of renunciation of further probation, and concluſion of the cauſe, ſubſcribed be the Clerk of Register, be produced in judgement with the proces. Statut be the Lords. 4. Junij. 1586.

IMPROBATION OF WREITS PRODUCED FOR PROBATION. CHAP. 28.

GIf any writ is produced *in modum probationis*, the partie againſt quhom it is produced, ſould haue inſpection therof, for ane certaine ſpace of time, to the effect he may vſe, and alledge his lawfull objections againſt the ſamine. *l. si lis. 11. C. ad leg. Cornel. de falsis.*

2. Of the quhilk objections *contra producta*, the laſt is *obectio falsi*, quhen the partie alledges, that the wreits produced againſt him, or ſome of them, can not prove againſt him, becauſe they are falſ, and fenzeit.

3. In the quhilk caſe, the Lords either repellis at that time, the objection of falſet, and reſerues the falſet to be perſewed;

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and tryed, be ordinarie way of action, and pronounces their decreit in the cause, and ordaines the samine to have execution as *effaires. l. 2. ad leg. Cornel. de fals.*

4. Or ellis, the Lords stayes the pronounciation of the decreit, in the principall cause, and admittis the exception of falsed, to be discussid, as order of Law requires. *c. 2. de crim. fals. extra.*

5. In improbation of wreittis, the Lords declares, that for schortnes of proces, na further termes sould be assigned, but twa charges for production of the wreits: quherof the second charge sould pas with certification, that in case of none production, the samine wreittis salbe declared, and decerned, to make na faith. Statut be the Lords. 25. Octobr. 1577.

THE DIRECT MANER OF IMPROBATION. CHAP. 29.

THe tryall, and inquisition of falset, be way of improbation, is vsed in twa maner of wayes.

2. The first is called the direct maner of improbation, be the witnes insert in the writ, quhilk is taken to be improven. And be the wreiter thereof, quhais name sould be insert in the writ. *c. cum Joannes. 10. de fid. instr. extr. lac. 6. Parl. 13. c. 175.*

3. Gif all the witnes insert, depones that they knaw nathing anent the writ, and that they were not required as witnes thereto: the writ, or evident is declared to be fals: And in that case, the samine hes na strength, nor effect of probation: And the vser thereof, is punished capitallie: And some time, the writ is decerned to make na faith: in the quhilk case, the vser thereof is quite, and frie fra all paine.

4. Gif twa witnes contened and insert in the writ, affirmes the samine to be trew, albeit ane great number of witnes alledges, and depones the contrair: the Lords decernes the writ to be trew, authentick, and to prove sufficiently, *quia cum in ore duorum vel trium, stet omne verbum, plus creditur duobus testibus, affirmantibus, quam mille negantibus.*

THE

THE INDIRECT MANER OF IMPRO-
bation. CHAP. 30.

THe second maner of improbation, is the indirect maner of improbation, be conjectures, presumptions, probabilities sic as be comparison of letters, written, or subscribed be him, quha writ, or subscribed the writ, or evident, that is taken to be improven. Or be comparison of seales, with the seale, quhilk is affixed to the writ. Or be interlining, or rasure, in substantiall poynts. *Per modum vidimus*, or oculare inspection. Or be *Alibi*, quhen the partie proves him self, or the witnes insert in the writ, or any of them, or the wreiter, to have bene in ane other place, at the time of the making of the wreiting, then is exprested in the famine. Or be the date of day, moneth, or yeare, contained in the writ. Or be subscriptions, of the partie, or of the witnes gif they have subscribed. Or be divers others wayes, and circumstances as occasion offers: and the Judge sall think relevant, and lawfull. *lib. 3. c. 8 7. c. inter. 6. de fid. instr. extr. l. comparationes. 19. cum. Authent. seq. C. de fid. instr.*

2. To the quhilk indirect maner of improbation, the Lords of the session, are only Judges competent. Swa that the famine on a wayes, may be decided be any inferiour Judge.

3. Because inferiour Judges sould judge *secundum allegata, et probata*: and may not follow presumptions, and probabilities, As the Lords of the Session may doe, *ex officio nobili*, they being supreme Judges in sic causis.

4. Gif the Lords finds the writ, or evident, either trew, or fals, be the direct maner of improbation: they vse not to proceed, or to receave the indirect maner.

5. And gif otherwaies they find the said writ not sufficiently improven be the direct maner: they will receave the indirect maner, and proceed thervntill, vntill the finall tryall of the truth. And as they finde be deduction of the proces, they will decerne the writ to be fals, or trew.

6. And cōsequently they will pronounce sentence absolutor, or condēnatour, in the principal cause conform to these rules. *Actore probante, reus condemnatur. Actore non probante, reus absolvitur, si ve iuste, si ve iniuste possideat. Reo probante, actor condemnatur.*

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*Reo non probante, actor absolvitur. quon. attach. c. 49. l. ult. C. de rei
vind. l. 2. C. de probat. l. 4. C. de edend. c. 1. ut Ecclesiast. benefic. c. 3. de
caus. propr. extr.*

OF THE SENTENCE. CHAP. 31.

IN the generall signification, a sentence is interloquutour, or definitiue. *l. 3. l. cum Iudex. 11. C. de sentent. et interloq. om. Iudic.*

2. Sentence interloquutour is, quhilk the Judge pronounces anent the libell, or vpon any exception, allegiance, answer, or reply, or any other article, induring the time of the dependence of the pley and principall cause.

3. And therefore is called *interloquutoria*, because the Judge pronounces the samine, induring the time of the dependence of the principal cause, *et interim loquitur, sciz. pendente eam principali.*

4. Sentence definitiue is *arbitrium, vel pronuntiatio Iudicis, quæ finem controversiæ imponit, vel condemnatione, vel absolutione, partis litigantis.* Quhilk therfore is the thrid, and last part of ane ordinar proces, because it puts ane finall end vnto the samine, conforme to the probation led, and deduced before the Judge. *d. l. 3. l. 1. ff. de re Iudic.*

5. The Judge sould gif his sentence site and in judgement, after the conclusion of the cause, for vntill the cause be concluded, na sentence may be pronounced, in respect, that the dependance of the probation, stayes the pronounciation of the sentence. *quon. attach. c. 16. c. 66.*

6. The Lords of Session, sould be aucht ordinar Lords, with the chancellor, or with the president, at the giving, or pronounciation of any sentence interloquutour, or definitiue. Statut be the Lord. 13. Junij. 1532. *1 ac. 6. parl. 11. c. 44.*

7. Before the Lords, it is not necessar to summone, or warne the partie to heare the sentence pronounced, gif the proces is lawfully deduced, and concluded be ane procuratour.

EXECVTION OF THE SENTENCE.

CHAP. 32.

ALl sentences, and decreits sould haue redie execution: quhilk is eather Reall, or personall, against them onely, contrare quhom the decret is given. *Nam sententia non præjudicat alijs, contra*

contra quos non est lata. l. 4. §. si ex conventionem ff. de re Judic. l. de unoquoq; 47. ff. eod. tit. l. 2. C. de execut. rei Judic. Personall execution is be charging the persone contrair quhom it is given to satisfie, and obey the samine: otherwaies to denunce him rebell, and put him to the horne, and to escheit his moueable gudes, & inbring them to the Kings vse.

2. Reall execution is against them, contrare quhom it is given, either be poynding of their moueable gudes. Or be comprising of their lands, or other gudes immoueable. *l. a Divo Pio. 15. ff. de re Judic. quon. attach. c. 49. §. Iac. 3. parl. 5. c. 36.*

3. To the effect it may be knowne, quhen personall execution of ane decreit, or Reall execution salbe vsed, it is to wit, that all decreits, & execution therof, consists *in faciendo, vel in dando.*

4. *In faciendo*, as decreits conteining delivering of evidents, randeriing of houses, or to infest ane mā in lands, or annuelrents.

5. In execution of the quhilk decreits personall execution is commonly granted, and vsed. As horning, or warding of the debtours persone: for quhen ane man is decernid or ordained to doe any deid, and does it not: he may be denounced Rebell: and his persone or bodie may be put in warde.

6. Decreits consists *in dando, vel debito solvendo*, as quhen ane obtaines ane decreit against ane other, for ane certaine sum of money, victuall, or prices thereof, or other debts, or dewties, anent the quhilk decreits, it is lesome to vse baith personall, or reall execution.

7. As gif I haue obtained ane decreit against zow, for ane certaine summe of silver, I may charge zow, to make payment therof: and gif ze fallzie, I may denunce zow the Kings rebell: and put zow to the horne; and also J may charge zow, to enter zour persone in ward, quhilk is personall execution.

8. Mairover, I may poynd zour moueable gudes, conforme to the quantitie of the debt, gif the samine may be found and apprehended.

9. And gif I can not find moueable gudes perteining to zow sufficient for payment of the debt: J may comprise zour lands, for the said debt contained in the decreit.

10. Quhilk poynding of moueable gudes, & comprising of the lands, is execution Reall, *super rebus, et bonis debitoris.*

11. And suppose ze be denounced Rebell, & zour persone put

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inwarde, I may poynd zour moveable gudes, or comprise zour lands. And swa the personall execution, stops not the reall execution. Albeit the reall execution of poynding or comprising, stops and stayes the personall execution of horning, or warding.

12. Last of all, it is statut, and ordained, that for execution of all decreits, alswell given be the Lords, in any time bygane, or to come, and siclike of decreits given, or to be given, be quhatsoever Judges, quherevnto the authoritie of the Lords, lies bene, or shall happen to be interponed. That letters alswell of horning, as poynding, the ane not to prejudge the other, salbe direct, at the will and plesure of the partie, obtainer of the decreit, quhither the samine is obtained vpon liquidat summes, or that the execution thereof, otherwaies consist in *facto*. *Jac. 6. parl. 8. c. 139.* Read *l. 1. et tot tit. C. de execut. rei judic.*

OF POYNDING OF MOVEABLE gudes. CHAP. 33.

QWhen ane decreit is obtainit against any person for liquidat summes of money, the Loras direct letters of poynding, to Messingers, Officiars of armes, charging them to passe, arrest, appryse, compell, poynd, and distreinzie the reddiest cornes, cattell, debtes, summes of money, gudes and geir quhatsoever perteing to him against quhom the decreit is pronuncit, & mak pennie thereof. And failzeand of his moveabl gudes, to apprise his landes and heretage conforme to the Acte of Parliament, to the availl and quantitie of the debt contained in the decreit.

2. Conforme to the command of the quhilk letters, the messenger passis personallie, takand witnes with him, to all and sundrie the lands perteing to the debtour, and there serches and seekes all his moveable gudes and geir, and to the effect that he may poynd and apprise the samine for payment of the said debt.

3. Because generallie in execution of decreits, the moveable gudes perteing to the debtour against quhom decreit is given, sould be first searched and socht. And gif the samine is not found equivalent for payment of the debt, sa meikill as is found, sould be poynded *pro tanto, vel rata debiti*. And the debtours lands may be comprysed for the rest of the debt. *Jac. 3. parl. 5. c. 36.*
Quon.

Quon. attach. c. 49 l. a Divo pio. 15. l. debitoribus. 31. ff. de re Iudic. l. etiam. l. eos quos. 9. C. de execut. rei Iudic.

4. The moueable gudes quhilkis are found, sould be apprised vpon the ground, quhere they are apprehended be honest, leill and trew men to ane certaine price: and thereafter at the market crosse of the head, & principal burgh, of the Shirefdom, within the quhilk the lands lies, the saidis gudes sould be apprised for the second time.

5. In the time of the poynding of the moueable gudes, the officiar executour of the letters, sould speir, and inquire openly, gif any person will alledge, and sweir, that the samine gudes perteines to him: And gif any man compeires in the meane time, and makes faith, or offers to make faith, that the gude, perteines to him, as his awin proper gudes and geir: the Officiar sould stay the poynding, and proceed na further in it: but sould deliver the gudes to him quha makes faith as said is: quhilk gif he does not, he and all intronettours with the saidis gudes, may be called for spoliation therof.

6. Some moueable gudes are priviledged *Reip. causa*, sic as oxen, horse, or other gudes perteining to the plough, and that labours the ground, quhilkis may not be poynded or distrenzeid, the time of the labouring of the samine, albeit they be not actually yoked in plough, wane, cart, or harrowes: gif there be other gudes immoueable as lands, or moueable, sic as cornes, kye, scheip, vtenstill or plenissing poyndable at that time vpon the ground, perteining to him quha is debtour, and is poynded for his debt. *Iac. 4. parl. 6 c. 98.*

OF COMPRISING OF IMMOVEABLE gudes. CHAP. 34.

ANe other forme of Reall execution of decreits, is comprising, quhen the officiar after diligent serching and seiking of the moueable gudes perteining to the debtour, findis nane, or findes not sameikill as will satisfie the debt awand to the creditour: In this case, the creditour in quhais favours the decreit is given, obtaines letters be deliverance of the Lords, commanding, and charging ane messinger to denunce all and findrie the lands, mylnis, heretages, tenements, annuelrents, takis, and reversionis, perteining to the debtour, quhere ever the samine lye within

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within this Realme, to be apprysed beforehim at ane certain day in the houre of caule, after the forme and tenour of the Act of Parliament. *Jac. 3. parl. 5. c. 36.*

2. These letters may be raised and execut vpon the space of fiftene dayes, and the partie sould be lawfullie summoned to that effect; and also all parties haue and or pretendand to haue entres, sould be warned at the market crosse of the principall burgh of the Schirefdome, within the quhilk the lands lyes. And likewaies vpon the grounde of the landes, and coppies sould be affixed therevpon.

3. The Officiar sould denunce the lands and groundricht, and propertie thereof to be comprysed vpon the ground of the lands, and at the principall burgh of the Schirefdome, or Schirefdomes quhere the lands lyes. And gif they lye within the Regalitie, the denunciation sould be at the ground of the lands as laid is, and at the principall and head towne of the Regalitie.

4. Gif the lands lyes within sundrie Schirefdomes, or Regalities, or gif they ly in any ane of them, discontigue; the Lords for that caule, or for other causes moving them, will dispense anent the place quhere the Court of comprysing sould be halden, & ordaine the samine comprysing to be led and deduced in ane other place within or without the Schirefdome, quhere the lands lyes, as within *Edinburgh*, quhere the Councell and advise of wise men may be had, and obtained anent all difficulties, that may aryse the time of the proces.

5. The day of denunciation being come, the Officiar fenses ane court in the place appoynted, creates members of Court, calles the parties. And gif the defender hes na lawful defence to stay the comprysing, or gif he being lawfullie summoned, compeirs not, ane allise of vn suspect persones, to the number of fiftene, or of threttene at the least are sworne, receaved, and admitted.

6. In comprisings the persons of inqueist may lawfully compryse the propertie, and heretable richt of the lands, for payment and satisfaction of the principall debt contained in the decret: as also for payment of the Officiars sic, being Judge in the proces of comprysing, quha be the act of Parliament sould haue payed to him be the debtour, fra quhom the summes and debts are recovered, twelue pennies for ilk pound of the debt, for execution of his office. *Jac. 4. parl. 6. c. 66.* The quhilk Officiars sic common-
lie

lie is fauld & dispoſed be him to the partie perſewer of the compryſing, and is conjoyned with the principall ſumme of the debt, and twa reſpect is had of the haill ſumme, be the aſſiſe in the deduction of the Proceſſe of compryſing, and the landes are compryſed for ſatiſfaction of the haill ſumme compted and raikned together.

7. The compryſing being decerned be the aſſiſe, the Officiar ſould offer all and haill the landes compryſed to the partie fra quhom they are compryſed gif he be preſent: And in caſe of his abſence, he ſould offer them be open Proclamation in judgment, and at the window of the Tolbuith, within the quhilk the Proceſſe was deduced to him, or to any others in his name, quha wald buy the ſamine, payand the ſummes of money, for the quhilk they are compryſed.

8. And gif he fra quhom they were compryſed, nor nane in his name compeires to buy them for the ſummes foreſaid; the officiar be vertew of his office, and Act of Parliament (*Jac. 3. parl. 5. c. 36.*) may ſell and aſſigne the ſaides landes to him at quhaes inſtance they are compryſed; and ordaine him and his heires to be heretable inſeſt in the ſamine, be the immediate Superiour in the ſamine forme and maner of halding, as they were halden before the compryſing be him, fra quhom they are compryſed.

9. The Proceſſe is inrolled and put in forme be the Clerke thereof ſubſcribed be him, and the ſeales of the maiſt part of the perſons quha paſt vpon the inqueiſt, are aſſixed thereto. And the ſamine Proceſſe is offered and preſented to the Lords of Seſſion. And being ſene and conſidered be them, and found orderlie proceided: They ordaine letters to be direct, to command and charge the immediat Superiour of the lands compryſed, to inſeſt and leaſe him, at quhaes inſtance they are compryſed heretable, to be halden of the Superiour, ſic like, and als frelie, as he fra quhom they are compryſed, held the ſamine before the appryſing, after the forme and tenour of the appryſing, and act of Parliament made anent appryſing of lands, and others for debts in all points. *Jac. 3. parl. 5. c. 36.*

10. It is leſome to the perſon fra quhom the lands are compryſed to quyte out, and redeme the ſamine lands againe within ſeven zeares immediatlie following the compryſing, payeand to the

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the buyer of the lands, the money for the quhilk they wer fauld, and expenses made vpon the overlord, for Chartour, Saifing, & Infestment. *Iac. 3. parl. 5. c. 36. Iac. 5. parl. 7. c. 106. leg. burg. 6. 94. stat. Alex. c. 24.*

SUSPENSION OF DECRIETS.

CHAP. 34.

BE the law, *Judex non potest sententiam definitivam ab eo semel latam, revocare, quum officio functus sit. l. Judex. 55. ff. de re Judic.*

2. Nevertheles, the law admits diverse and fundrie exceptionis *contrariam judicatam*, be way of reduction, or suspension proponed at his instance, against quhom the decret is pronounced, albeit he compeired at the giving of the decret, or compeired not, for sic reasonable causes, as the Lords sall thinke lawfull. *l. 1. C. de re Judic. l. 2. C. de execut. rei judic.*

3. Be the quhilk letters and summons of suspension, the partie obtainer of the first & principal decret is summoned, to compeir at ane certaine day, to heare and see the execution of the decret suspended and stayed simpliciter, for the reasons conteined in the summons.

4. Swa the partie quha was persewer in the principall cause, and first decret, is defender in the cause of suspension. And he quha was defender in the principall cause, against quhom the decret was given, is persewer in the cause of suspension.

5. The persewer of the suspension at the time of the raising of the summons of suspension, sould finde sufficient caution, and sovertie, to fulfill and obey the principall decret given against him, quhereof he seekes suspension in case the Lords hauing discussed the suspension raised be him, finde that the reasons of suspension are not relevant; bot that the decret pronounced against him, and suspended be him, sould haue execution against him. Statute be the Lords 25. October. 1577.

6. And gif ane decret of removing from any lands, possessions or tenements, is given against any man, and he not willing to obey the samine, and swa raises summons of suspension, to heare and see the execution thereof suspended and stayed; he sall finde the like sovertie to obey, and obtemper the samine, in case the Lords finde that he sould swa doe, vnder sic pecuniall paines, as the

as the Lords pleis to modifie, according to the qualitie, & quantitie of the persone, and the cause. And the Clerk of the billis, quha is ane of the Clerk of Registers substitutes, at the raising of the summons and letters of suspension, shall receave the said cautioners obligation to the effect foresaid, at cōmand of the Lords.

7. It is not lesome, to the partie raiser of the suspension, after execution of the letters against the other partie, to libell or alledge any new reasons, divers fra them contained in the summons of suspension. Except the Lords for reasonable caussis moving them, grant speciall licence to eik, and reforme the reasons of suspension, as they vse to doe widowes, pupillis, strangers, pure folk, and miserable persones, worthie of pitie and compassion.

8. Because all suspensions are odious, and na wayes favorable being invented, and raised to stop, and stay the execution of decreits, and therefore sould be restrained, and not amplified.

9. And for the famine cause, the reasones contained in the summons of suspension, being found relevant, and lawfull be the Lords, commonly sould be verified, and proven *instante*. And na ordinar terme of probation, sould be assigned for proving thereof.

10. Na suspensions of decreits are granted, but be ane speciall supplication of the partie soyer thereof, given to the Lords in writ, and subscribed be them, at the least betwa of them, in name of the rest of the Lords.

11. All suspensions are raised to ane certaine day, be deliverance of the Lords, to the quhilk day, the partie sould be summoned to compeir. And albeit the summons of suspension is not discussid that day, but remaines, and continewes not decided: the execution of the principal decreit, being ains suspended, is vnderstand to be suspended, ay and quhill the reasons of suspension be finally discussid, and decided be the Lords, be ane sentence definitive, or be protestation admitted be them in favour of the defender.

12. Because gif the partie defender in ane suspension compeires, and the persewer compeirs not: it is lesome to the defender, the day of comperance being bypast, to produce in judgement the copie of the summons, be the quhilk he was summoned: and to protest, that seing he is readie, to defend in the caus, and the persewer compeirs not to persew: that na proces salbe granted

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granted against him, in that cause of suspension, vntill the principall letters of suspension, raised be the persewer thereof, be iudicially produced, & he be summoned, and warned to the production thereof, and his expenses payed and refunded to him.

13. This protestation is commonlie admitted be the Lords, and ane act Judicial, subscribed be the Clerk of the Register, counsell and Rolles, is extracted be the defender, containing the same protestation. Quhilk being done, the defender in the suspension (*quha was persewer in the principall cause, & decreit, quhilk was suspended*) may lawfullie put to execution, the first letters raised be him, for execution of his principall decreit obtained at his instance.

14. Gif he quha raises and persewes the suspension compeirs to persew, at the day of the compeirance, to the quhilk the defender is summoned: And it happen that the defender compeir not the same day, the Lords will decerne the principall decreit, to be put to further execution, conforme to the tenour thereof, be reason of the contumacie of the defender, quha being lawfullie summoned, compeired not.

15. Quhen suspension of ane decreit is obtained vpon sic reasons as pleases the partie to libell: And it be found be the Lords, that the principall decreit, should haue further execution, notwithstanding the reasons libelled: he quha is persewer in the suspension, shall pay ane amand arbitrall to the Lords, to be applied as they shall think expedient. Because he did wrongously stay the execution of ane lawfull decreit, not haveand ane just cause to doe the same.

16. Na inferiour Judge within this Realme may suspend the decreit pronounced be him self. But the Lords of Session, & counsell, being supreme Judges in civill causes, *ex nobili officio*, may doe the same, for sic lawfull reasons, as they shall think gude, and reasonable.

17. It is ordained that na suspension, or supersederes be granted of liquidat summes, recovered of quhatsoever decreits given *in foro contradictorio*, without payment be made to the partie, and sufficient discharge schawin therevpon. Or ellis the sums & silver be consigned in the hands of the Clerk of the billis, quha is ane of the Clerk of Registers substitutes. Statut be the Lords.
27. Julij. 1599. Jac. 6. parl. 5. c. 139.

REDVC.

REDUCTION OF DECRETES.

CHAP. 36.

R Education of decretes gevin be inferiour Iudges, is nocht grâted or permitted to them selues quha pronūced the decret. *l. i. c. C. sentent. rescind. non posse. l. post. 9. C. de sentent. & interl. om. Iudic. l. quod Iusfit. 14. l. Iudex 55. ff. de re Iudic.*

2. And within this Realme, na Iudge may reduce his awne decret, except the Lords of session, quha may nocht onlie reduce their awne decretes, as fall be said hereafter: bot also the decretes of all inferiour Iudges in ciuil causes. And also the decretes of the commissaris of Edinburgh, quhilk fall happin to be gevin be them in Ecclesiasticall causes, against law and reason.

3. Like as the Commissars of Edinburgh hes power, and jurisdiction, to reduce decretes wrangoullie gevin be all inferiour Commissars.

4. Decretes being reduced be ane sentence definitiue in favours of the persewer of the reduction, not onlie stopes & stayes the execution of the decret, quhilk is reduced: bot also casses and annulls the samin, in sic maner, as gif the samin had never bein gevin, and pronūced.

5. Bot the reduction of ane decret, stayes not the execution thereof, induring the time of the dependance of the proces of reduction. And therefore reduction of decretes, is not so odious, as the suspension of decretes.

6. And for this cause, ane ordinaire forme of proces is vsed in reductions, be assignation of divers terms, for proving of the libell, or exception, & vsing of incident diligence, as is before said, anent the probation of the libell, or exception, quhen either of them is fund relevant, and admitted to probation.

7. All decretes wrangoullie gevin be any inferiour Iudge of this realme in ciuill causes (sick as be Barons, Shirefs, Stewards, Provest, & Baillies of Burroues) may be reduced be the Lords of the session, as supreme Iudges in ciuill causes, for sic reasons & causes, as fall pleis the partie to libel, conforme to the law.

8. Concerning reduction of decretes given be the Lords them selues, ane distinction is to be observed. Because gif the partie defender compeirs not to defend in the first instance, or

The forme of Proces,

proces; & findes himselfe hurt, & preiudged, be the decreit gevin against him; he may cal, and perfew for reduction of the decreit, for sic reasons as are competent be the law. *c. cum Bartholus. 18. de sentent. & re judic.*

9. Generallie all exceptions and defences, quhilkis gif they had bene proponed, & alledged in the first instance, might haue stopped the geving of the decreit: the samin being proponed in the lecond instance of reduction, is sufficient to annull, & reduce the samin decreit. Speciallie gif the cause of the absence, was necessar. *l. cum non. 10. C. quomod. & quand. judex. d. c. 18.*

10. Bot gif the partie compeired in the first instance, and made defence before the Lords; and his defences being repelled, decreit condemnatur is gevin against him; he suld not be hard thereafter to reduce that decreit. *Bartol. in l. querebatur 62. ff. de re judic.*

11. Because in the first instance, either he proponed his defences, quhilkis were repelled. In the quhilk case, he will not be hard in the second instance, to reduce the decreit, be reason of the samin exceptions, and defences, quhilkis were in the first instance proponed be him, and repelled be the Lords. *Quia non licet reducere sententiam ex eisdem deductis. h. e. ex eisdem exceptionibus, quas in prima instantia, fuerunt in iudicio deductae, & decise.*

12. Gif the partie defender compeired in the first instance, & in the second instance, desires to reduce the decreit gevin against him; be reason of sic exceptions, as was competent to him, and not proponed, bot omitted be him in the first instance: he will never be hard to reduce the said decreit, be reason of the samin exceptions, omitted be him in the first instance, & now proponed be him, in the secūd instāce, *quia praesumitur illas exceptiones dolose omisisse, ut adversarium postea litibus vexaret. ideoque in secunda instantia, non est audiendus, tum quia eius dolus non debet illi prodesse, & alteri obesse; tum quia interest Reip. ut aliquando litium finis sit, & ne sint perpetuae, & immortales. l. 1. ff. de dol. mal. & met. except. l. properandum 10. c. de judic.*

13. Nevertheles it is to wit, that conform to the praetick, and consuetude of this realm, decreits, and sentences may be reduced before the Lords of the session, be the partie preiudged thereby albeit he compeired in the first instance, be sic reasons, and exceptions, quhilkis were not proponed be him, but are emergent,

gent, or of new, are come to his knowledge.

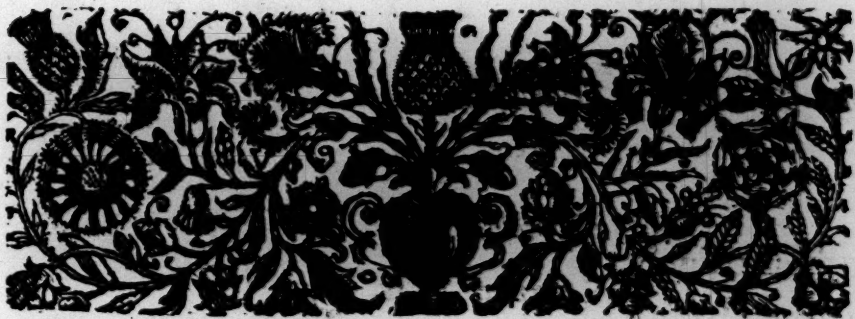
15. Emergent exception is, quhilk was not *in rerum natura*, the time of litiscontestation, in the cause, and therefore could not haue bene proponed be the partie, sic as of anie paction, transaction, or other agreement made betwixt the parties after the litiscontestation, or sentence definitiue.

16. *Exceptio de novo perueniens ad aures*, is that, quhilk was *in rerum natura*, the time of the litiscontestation: and was vnknawin at that time to the partie, and thereafter is come to his knowledge. *l. admonendi. 31. ff. de iurejur.*

17. As gif ane man is called and persewed as heire to his father, for payment of debts awand be his father, contracted before his deceis; and decreit condemnatour is given against him, decerning him, as heire to his father, to pay the said debt: yet nevertheles the samine debt was payed be his father, before his deceis, and ane acquittance reported be him therevpon. Quhilk acquittance, and discharge, is in the possession of ane thrid persone, not knawin to the said heire. In this case, the heire micht not, before the decreit was pronounced against him, propone ane exception of payment, founded vpon the acquittance: because the samine was not come to his knowledge; and he had just and probable ignorance thereof *in facto alieno*. But afterward, the samine acquittance, and discharge comand to his knowledge, after the giving of the decreit: he hes sufficient ground & richt, to reduce the samine decreit: be reason of his probable ignorance, as said is. *Quia quæ de novo emergunt, vel ad notitiam perueniunt, novo indigent auxilio. c. ceterum. et ibi gl. de iuram. calum. extr. l. 1. ff. de ventr. inspiciend. l. plane. 4. vt in possess. legator. l. de estate. 11. §. ex causa. ff. de interrogator. actionib.*

F J N J S.





LECTORI GEMINI

HVIVS TRACTATVS, PRAE-
ced. & seq.

Quo dirimas lites, quo caussas ordine tractes,
Quo jus acquiras, quo tuearè tuum;
Inde luant meritas quo crimina noxia poenas,
Crimina, suppliciis quæq; notata suis,
Noscere si quis aues; Skenæj industria, leges
Quem fixerè, oculis subjicit: ecce; lege.
Dedecus, Hydra fori, Lernæis conde sub undis
Hinc capita; aut jugulo est sica parata tuo.

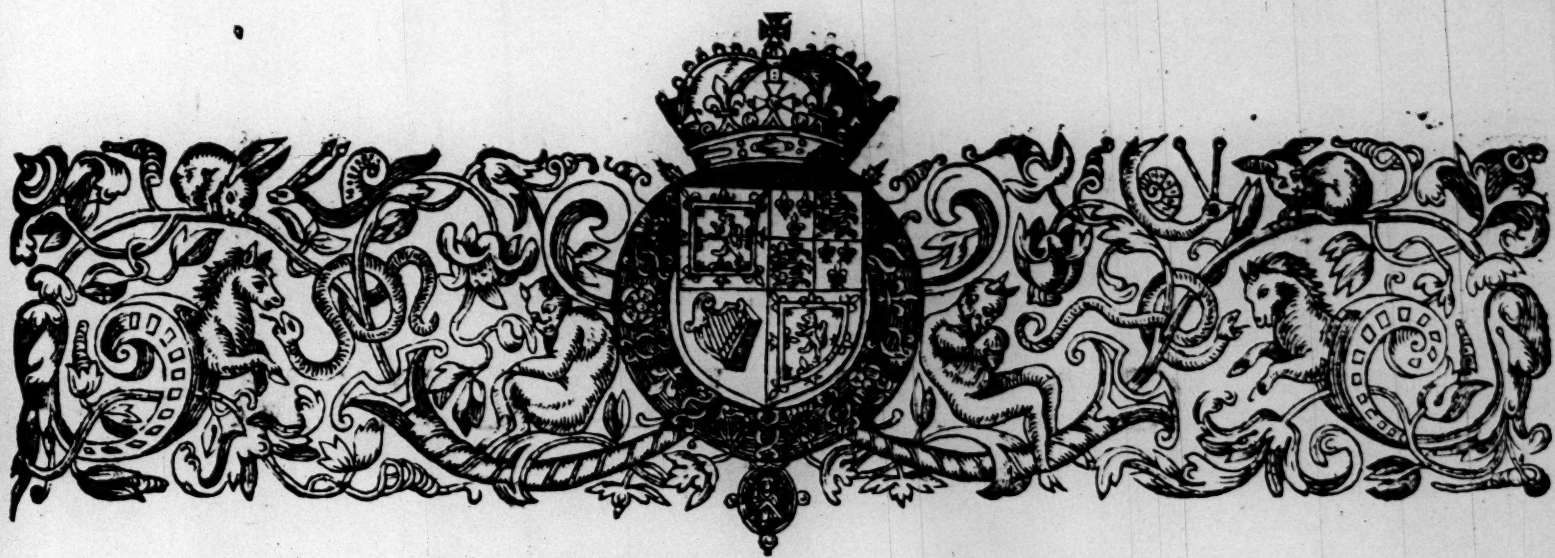
PATRICIVS SANDAEVS.

Y 3



ANE SHORT TABLE OF THE CON- tents of this Treatise

All Crimes be the Law are,	punished be	Ane lawchfull paine prescryved be a Law	Capitall. Tit. 2.
			Pecuniar. Tit. 3.
			Nether Capitall, nor pecuniar. Tit. 4.
		Ane paine arbitrare, not speciallie prescryved be a Law, bot permitted, and left to the Kings will and mercie. Tit. 5.	
Judged & decyded		In Parliament, be the King, & the voites of the Estaites. Tit. 8.	
		Justitiar general	In his Justice Aires. Tit. 9.
			In his particular Justice Courts. Tit. 10.
	Ordinar.	The Schiref. Tit. 11.	
		Chalmerlane. Tit. 12.	
		Constable of the Realme. Tit. 13.	
		Earles, Lords, & Barons. Tit. 14.	
		Lords of Regalitie. Tit. 15.	
	Be ane as- sise befoir the Judg.	Extraordinar, as commissioners of Justitiarie, made and constitut be the King, at his will and pleasure. Tit. 16.	



OF CRIMES, AND IUDGES IN CRIMI- NALL CAUSES, CON-

forme to the Lawes of this
Realme.

DEFINITION OF ANE CRI-
minall cause. CHAP. I.



RIMINALL CAUSE IS
quhilk concernes, and touches life,
or limme; or ane paine of blude:
Or ane pecuniall paine, to be in-
brocht, and applyed to the Kings
vse.

DIVISION OF CRIMES.
CHAP. 2.

CRimes are punished be ane lawfull paine, speciallic set
downe, and prescribed be the Law. Or the paine thereof
is Arbitraire. Lawfull paines, are capitall, or pecuniall,
or neither capitall nor pecuniall, bot of ane vther kinde,
and sorte. Arbitraire crimes are, quhilk hes na certeine pre-
scribed paine; bot are punished be the Kings will, and mer-
cie.

CAPIT.



CAPITALL CRIMES.

TIT. 2.

OF TREASON, AND POINTS

thereof. CHAP. I.



THE GREATEST CAPITAL crime, is treason. And the greatest point of treason, is against the King, or sedition contrair his Majesty, his persone, his kingdome, or his hoist, or armie. *lib. 1. c. 5. lac. 1. parl. 1. c. 3.*

2. He quha wilfullie raises ane affray in the hoist, commits treason. *lac. 2. parl. 12. c. 52.*

3. It is treason, gif anie man rises in feare of war, against the King, his persone violentlie, quhat age the King be of, young or auld, or resets any that hes committed treason: or that suppleis them in help, redde or counsell: or that stufes the houses of them that are convict of treason, and haldes them against the King: or that stufes houses of their awne, in furthering of the Kings rebels: or that assalzeis castels, or places, quhair it sall happen the Kings person to be. *lac. 2. parl. 6. c. 25.*

Poyson.
4. It is treason to any man, or woman, to buy or inbring, any kinde of poyson, within the Realme, for any maner of vse. *lac. 2. parl. 7. c. 32.* Albeit the man, or woman, be ane stranger of any vther Realme. *lac. 2. parl. 7. c. 32.*

Kirkmens places.

5. It is treason to all men, quha takes any Bishops places, castels, or strengths: or to enter be their awne authoritie in Abbaies, to hald their places, without our Sovereigne Lords command, or desire of the convents thereof, at times quhen
Bilhop-

Bishopricks, or Abbacies vaikes, or at any other time, they not vaikand, without the Kings licence. *Iac. 5. parl. 7. c. 125.*

6. It is treason to moue any pick, grudge, or querrell, or to beare any rancour, haitreat, or invie against them, quha takes, apprehends, or slayes vpon sudantie, or otherwaies puts to death declared traitours. *Mar. parl. 4. c. 8.* *Slaughter of traitours.*

7. It is treason to ane theif to take ane Scottis man at any time, or to call the man quha is taken, or his sovertie, for payment of the paines conteined in the band, or obligation, to be payed to him, be the theif. *Iac. 6. parl. 1. c. 21.* *Anent theifs.*

8. All they quha burnes folkes in their houses, or burnes houses, or cornes, or raises fire wilfullie, committes treason. *Jac. 5. parl. 3. c. ult. Iac. 4. parl. 6. c. 65.* *Fire.*

9. He quha accuses ane other person of treason, gif the partie accused, being called and accused, is acquite of the said crime of treason: his accuser fall incurre the samin paine of treason quher- of he accused the other. *Iac. 6. parl. 11. c. 59.* *Accuser.*

10. Murther, or slaughter of quhatsoever of our Soveraine Lords lieges, quhere the persone slaine is vnder the trust, credit, assurance, and power of the slayer, is treason and lese majestie. *Iac. 6. parl. 11. c. 51.* *Slaughter under trust.*

11. Quhasomever strikes, hurts, or slayes anie person within his Highnes Parliament house, during the time of the Parliament, within the Kings chalmer, cabinet, or chalmer of presence, or within the inner Tolbuith, the time the Lords of Session sits, or within the Kings privie counsaill house, the time of the counsaill sitting there, or quhasoever fall happen to strike, hurt, or slay any person in presence of his Majestie, quhere ever his highnes happens to be for the time, fall incurre the paine of treason. *Iac. 6. parl. 13. c. 173.* *Slaughter in Parliament, and in other places.*

12. Parricide committed be anie man, fall infer the paine of treason, against the committer, and his posteritie *in linea recta.* *Parricide.* *Jac. 6. parl. 14. c. 220.*

13. The saying of Messe, resetting of Iesuits, Seminarie preists, trafficking Papists, against the Kings Majestie, and the religion presentlie professed within the Realme, is, and salbe ane just cause, to infer treason, and the paine thereof: baith against them, quha are reset, as also against them quha are the resetters. *Iac. 6. parl. 12. c. 120. Jac. 6. parl. 19. c. 1.* *Messe, Iesuites.* And sic like is to be said of the

Crimes Capitall.

the refetters of fayers of melle, or of excommunicat Papifts, being orderlie convict of the faid reſet, thrie times. *Iac. 6. parl. 13. c. 164.*

Fire in coilheuchies.

14. They quha ſets fire in coilheuchis, vpon privat revenge, and deſpit, commits treason. *Iac. 6. parl. 12. c. 146.*

Declining of the Kings authoritie.

15. It is treason to any man ſpirituall, or temporall, in anie matter quhere they or any of them, ſalbe apprehended, ſummoned, or charged, to answer to ſic things as ſalbe inquired of them, be our Sovereaine Lord, and his counſaill, to decline the judgement of his Highnes, his heires, and ſucceſſours, or their counſaill in the premiſſis. *Iac. 6. parl. 8. c. 129.*

Thrie eſtates.

16. It is treason to all the Kings lieges, and ſubjects, to impugn the dignitie, or authoritie of the thrie eſtates in parliament: or to ſeik, or procure the innovation, or diminution of the power, or authoritie, of the ſamine eſtates, or of anie of them in time comming. *Jac. 6. parl. 5. c. 131.*

Benefices.

17. It is treason to purches benefices at the court of Rome. *Iac. 3. parl. 6. c. 43. Jac. 4. parl. 1. c. 4. parl. 5. c. 53. Iac. 5. parl. 7. c. 119.*

Fals cunzie.

18. Makers, forgers, fenzeares, and haymbringers of fals cunzie commits treason. *Mar. parl. 9. c. 70.* And all outputters of the ſamine, are traitours. *Jac. 5. parl. 7. c. 124.*

Hieland men.

19. The inhabitants of the Hielands, & Iles of this Realme, quha comperid not to ſchaw their haldings, and to find caution in the Checker, are forfeited of their lands. *Jac. 6. parl. 15. c. 262.*

Iles.

20. Na man ſould conduct, fraucht, or pilot anie ſtranger merchand to the Iles, to defraud the lieges, and the Kings cuſtomes, vnder paine of life, land, and gudes. *Iac. 6. parl. 7. c. 120.*

Landed mē theifs.

21. Landed men lawfullie, and orderlie convict of common theft, reſet of theft, or ſtouth reiſ, incurres the crime, and paine of treason. *Iac. 6. parl. 11. c. 50.*

Fals weichts, and meſures.

22. Be the auld burrow Lawes of this Realme vſers of fals wechts, or meſures, are puniſſid as traitours. *leg burg. c. 132.* But now they are puniſſid onlie be death, and confiscation of moueable gudes.

Fugitiues fra the King.

23. All they quha flies fra the King, or his Lieutenant, ſould be puniſſid as common, and notorious Rebels. *Jac. 1. parl. 8. c. 110.*

24. Reſetters, maintainers, or favourers, of open and mani-
feſt

fest treatours, committis treason. *Jac. 1. parl. 2. c. 37. Jac. 6. parl. 12. c. 144.*

THE PAIN OF TREASON. CHAP. 2.

THe paine of treason is tynsell, and forefaltour of life, lands gudes, and geir moveabill, perteing to the traitour, or that may pertene to his heires, and successors. *Leg. Malc. 2. c. 12. lib. 4. c. 1. Quon. Attach. c. 19. Iac. 1. parl. 1. c. 3. & passim.*

2. The committer of treason may be punished not only for the fact, or deid, done and committed be him; bot also for his wicked intention, and purpose, albeit na deid follow there vpon. *lib. 1. c. 1. 5.*

3. Gif ane man comit treason, & therafter deceises, the King may cause raise summons against his heires, to heare him forefalted, for the treason committed be him, before his deceise. And all his gudes moveable, & vnmmoveabill, quhilkis pertained to him, the time of the committing of the said crime, and thereafter to be decerned to pertene thereafter to the Kings Majestie. *Iac. 5. parl. 6. c. 69.*

ANENT THE PROCES, AND IVDGE, in the crime of treason. CHAP. 3.

GIf any person is sklandered, or suspect of treason; he sall remaine in firmance (*sure ward*) and his gudes vnder sure burghs, vntill he haue tholed ane assyse, quhither he be quite or foule. *Iac. 2. parl. 12. c. 49.*

2. And gif he quha is suspect, or delated to haue committed treason, is fugitiue; he may be summoned at the Kings advocats instance, be ane ordinaire herauld, & pursevant, bereand ane coat of armes, or be Maseris, *Iac. 6. parl. 12. 2. 125.* vpon the space of fortie dayes, to compeir before the King, and his estaites in parliament. &c. And the day of compeirance being come, quhither he compeir, or not, the crime being lawfully provin, and verified be sufficient probation, led, and deduced against him, be the suffrages and voites of the estaites in parliament, in presence of the Kings majestie, he may be condemned, and convict of treason, and lese majestie.

3. Mairover gif the traitour is apprehended personally, or compeirs, he may be put to the knowlege of ane assyse of his peirs, before the Justiciar generall. And be their deliverance,

Capitall Crimes,

verance, or the maist part of them, he may be convict, and forfeited.

4. Sua in the crime of treason, the King anlie is ordinar Iudge, either in his Parliament, or in the Court of his Iustitiar generall. And the paine thereof, and all commoditie that may result theiranent, pertains to his Majestie. *Quia contra quem committitur delictum, eidem applicatur poena.*

PRODITION, OR SLAUCHTER OF

the ourlord. CHAP. 4.

THere is ane capitall crime les then treason, and greater then common slauchter; quhen the vassall slayis his maister, or ourlord; In the quhilk case, he, and his heirs, tynis and amittis all the landis haldin in chief of him, quha is slane. And the slayer is pnnished to the death. Bot his heir foresalts not the lands quhilks the committer of the slauchter, did hald in chief, of vther superioris, agains quhom he committed na fault, or trespas. *Quon. Attach. c. 19.*

PLEYES OF THE CROWNE.

CHAP. 5.

BE the auld Lawis of this Realme, foure crimes are called the pleyes of the crowne, (*placita corone*) Because the determination thereof, pertains onlie to the kings court and Jurisdiction: and to na Baron, nor subject spirituall, or temporall: swa that the moveabill gudes, of sick trespassours, committers of the saidis crimes, fall pertene to the King: and to na subiect. *Leg. Malc. 2. c. 11. Stat. Alex. c. 14.*

2. And gif these crimes happenis to be committed within burgh, the execution salbe referued, vntill the cumming of the Kings Iustitiar. *Leg. burg. c. 6. Quon. Attach. c. 76.*

3. The paine of the saidis crimes, and of ilk ane of them, is death, and confiscation of the gudes, moveabill. *Stat. Rob. 3. c. 43.*

Murther. 4. The first of these crimes is Murther, quhilks publick, quhen ane is slane be forethocht-felonie. *Leg. Malc. 2. c. 15.* And commonlie is called voluntare slauchter. Or it is privat, quhilks is committed quietlie, and secretlie, na vther man seing, nor

nor knawing of the samine; except onely the man slayer, and his complices. *Lib. 4. cap. 3.* the quhilk wee call properlie murder.

5. The secund is, Revilling of women, quhen ane woman is forceable oppressed and defyled in her bodie, be ane man. *lib. 4. c. 8.*

Revilling of wemen

6. The committer of this crime, sould finde sovertie to compeir before the iustitiar; otherwaies he may be denounced Rebell. *Jac. 5. parl. 7. c. 118.*

7. The thrid crime of reif or roborie, quhen ane man personallie present, takes from ane other violentlie, any gudes or geir. *lib. 4. c. 7.*

Reif.

8. They quha passes to the Kings hoist, and takes any thing, sic as meate, or drinke, and payes not for it; committes reif and roborie. *stat. 1. Rob. 1. c. 5. Read Jac. 3. parl. 11. c. 81.*

9. The fourth cryme, quhilk be the auld law was ane point, or pley of the Crowne, is burning, or wilfull raising of fyre, quhilk now is ane poynte of treason, and lese Majestie. *Jac. 1. parl. 4. c. 75. Iac. 5. parl. 3. c. ult. parl. 7. c. 118. Iac. 6. parl. 1. c. 33.*

Fyre.

10. And swa now there are but thrie pleyes of the Crowne, Murther, Revilling of wemen, and Reif.

OF SLAUCHTER.

CHAP. 6.

MAn-slauchter, committed voluntarlie be forethoght felonie, or casuallie be *chaudmelle*, generally is punished be death, and confiscation of the moveabell gudes pertaining to the trespassour. *lib. 4. c. 5. Iac. 1. parl. 3. c. 51. parl. 6. c. 93. c. 96. Stat. Rob. 3. c. 43.*

2. Swa that the Girth, or Sanctuarie is na refuge to him quha commits slauchter be forethocht felonie: bot he suld be delivered to the Judge ordinaire, to vnderlie the Law. *Iac. 5. parl. 4. c. 22.*

Girth.

3. And gif the manslayer, is fugitiue, and can not be apprehended personallie, he sall be charged be open proclamation, to finde sovertie and caution to vnderly the law within sex dayes, quhilk gif he failzie to doe, he may be denounced rebell. *Iac. 1. parl. 1. c. 90. Iac. 3. parl. 14. c. 100. stat. Rob. 2. c. 4.*

Man-slayer fugitive.

Z

4. The

Capitall Crimes.

4. The refetters of man-slayers, are punished be confiscation of their moveable gudes, & be tynsel of their liferent. *stat. Rob. 2. c. 10.* Or they fall incurre the paine of life and gudes moveable. *Jac. 1. parl. 6. c. 90.*

*Slauchter within
kirk or kirkzard.*

5. Gif any man committes slauchter within ane kirk or kirkzarde, and is fugitiue and denounced Rebell therefore; not onely the escheit of his moveabilles, bot also his liferent of all his land, perteines to the King. *Jac. 6. parl. 12. c. 118.*

Furious manslaier

6. Gif ane furious man committes slauchter, he sould be put in warde. Bot gif he doe it be teinzied furie, he fall die therefore. *stat. 2. Rob. 1. c. 24.*

*Slauchter of parties
pleyand before
ane Iudge.*

7. Gif twa parties contends in judgement, and the defender happinnes to slay or wounde, or to invade the persewer, he fall be condemned in the pley, without any farther probation of the libell.

8. And gif the persewer hurtes, slayes, or invades the defender, he fall be absolved fra the persewers libell. And gif the malefactor is fugitiue and denounced Rebell: his liferent perteines to the King. *Jac. 6. parl. 14. c. 219.*

*Self-slaucht er, or
felo de se.*

9. All they quha cruelly and vnnaturally puttes their hands in their awin bodies, or any maner of way slayes them selues, be water, or otherwaies; are punished be ane ignominious buriell, and confiscation of all their moveable gudes, be the common consuetude of this Realme.

Mutilation.

Demembration.

10. Mutilation, and demembration is punished as slauchter. *Jac. 5. parl. 7. c. 118. Jac. 4. parl. 3. c. 28. stat. Rob. 2. c. 11. stat. Rob. 3. c. 44.*

*Slauchter done be
ane horse.*

11. Gif ane horse slayes ane man passand before him, with his forther feete: He quha is rydand vpon him, fall be punished, as gif he had done the samine with his awin hand. Bot it is not swa of ane man slane with the hinder feete of ane horse. Because na man rydand vpon ane horse, sould keepe and preferue them, quha standes or ganges behinde his horse heeles. *lib 4. c. 24.*

*Slauchter for loue
of landis or wife.*

12. Gif any man wilfully slayes ane other man, or procures, or causes him to to be slane, for loue and delyre of his wyfe, or of his landes: He and all they quha menteines, or refettes him, are mensworne, and perjure against God, the King and the Realme, and may be punished be the King, to the death.

leg.

leg. Malc. 2. c. 14.

OF SINGVLAR BATTELL.

CHAP. 7.

NA person without the Kings licence, shall fight any singulare combat vnder the paine of death, and confiscation of all his moveables. And the provoker to be punished with ane mair ignominious death, then the defender, at his Majesties pleasour.

*Iac. 6. parl. 16. c. 12.*THE KINGS COVNSELLOVRS AND
Officers.

CHAP. 8.

QWhasoever invades, or persewes any of his Highnes Session, Secret Councell, or others his Highnes officers, for doing of his Hignes service, shall be punished to the death. *Iac. 6. parl. 16. c. 4.*

HARMSV KIN.

CHAP. 9.

HAymesukin, is quhen ane man searches, and seeks ane other man at his house; or assailzies his house, to slay him, or to doe him any injurie, quhilk crime is punished be death, and confiscation of his moveable gudes. *lib. 4. c. 9.*

VVITCHCRAFT,

CHAP. 10.

WItch-craft, Sorcerie, Necromancie, the vsers thereof, and all persons seikand any helpe, response, or consultation, fra any sic vsurs, or abusers, are punished to the death, with all rigour. *Mar. parl. 9. c. 73.*

INCEST AND ADVLTERY.

CHAP. 11.

Committers of incest, with sic persons, with quhom it is not lesome to contract mariage, sould be punished to the death.

Iac. 6. parl. 1. c. 14.

2. Adulterers may be denounced rebelles, and their moveable gudes escheited. *Mar. parl. 5. c. 20.*

3. Adulterie committed be any man or woman, is punished to the death. *Mar. parl. 9. c. 74. Iac. 6. parl. 7. c. 105.*

Capitall Crimes.

F A L S E T.

C H A P. 12.

Fals money.

FAlset in the Kings money, or inbringers of any strange black money of other Realmes, or that counterfeites the Kings i-rons, for to make false cunzie, are punished to the death. *Jac. 3. parl. 5. c. 40. Jac. 5. parl. 7. c. 124.* And the false money should be clipped and destroyed. *Jac. 4. parl. 4. c. 40. Jac. 6. parl. 1. c. 19. Jac. 5. parl. 7. c. 124..*

*False Notars and
and witnes.*

2. False Notars, and false witnes, corrupters and seducers of them, should be punished to the death. *Jac. 5. parl. 6. c. 80.* Or they are punished by prescription, banishment, demembring of the hand, or of the tongue. *Mar. parl. 5. c. 22. lib. 4. c. 13.* Moreover, they are infamous, and perjure, and all other moveable gudes, may be escheit to the Kings vle. *Mar. parl. 6. c. 48. lib. 4. c. 26.*

Fals wechts.

3. Vsures of false wechts, and measures, should be punished as falsars. *Jac. 4. parl. 4. c. 47.* that is, to the death. *leg. burg. c. 132.*

Leasingmakers.

4. Leasingmakers, quha may engender discord betwix the King and his people, sell fine life and gudes to the King. *Jac. 1. parl. 2. c. 43. Jac. 5. parl. 6. c. 83. Jac. 6. parl. 14. c. 205. Stat. 1. Rob. 1. c. 21.*

False officiars.

5. Gif ane Officiar of armes, charges any man, for the Kings taxation, listes and takes vp any mair dewtie then the summe conteined in the letters; he incurreth the paine of falsset, and may be punished to the death. *Jac. 6. parl. 15. c. 227.*

6. Likewise officiars of armes committand falsset or oppression of the lieges, in execution of their office, shall be punished to the death. *Jac. 6. parl. 11. c. 83.*

7. Gif the Officiars summeone mae persons to passe vpon ane assise, nor fourtie fine, to be given to them in Roll, be the persewer, for gratitude, or gude deid; they therefore may be punished to the death. *Jac. 6. parl. 11. c. 88.*

T H I F T.

C H A P. 13.

THift, and committer thereof, should be judged als sone as ane Court may be set therefore. *Jac. .. parl. 13. c. 142. Jac. 5. parl. 1. c. 2.*

2. Na man should sell ane theif, or finne with him, for thift done, or to be done, vnder the paine of life and gudes. *Jac.*

1. parl.

1. *parl. 13. c. 137 Jac. 5. parl. 1. c. 7. stat. V Vilh. c. 15. stat. 1. Rob. 1. c. 9.*

3. Slayers and hochers of horse, oxen, or other cattell, and their reletters, suppliers, mentainers, shall be punished as thieves, and incur the paine of death, and confiscation of their moveable gudes. *Jac. 6. parl. 7. 110.*

4. The samin paine is extended to all them quha cuttes, and destroyes pleuchs; or pleuch graith, in time of tilling; or wilfully cuttes growand trees, and cornes, breakes myllnes, or strikes, goars, or felles oxen or horse, in time of leiding of cornes, or fewel *Jac. 5. parl. 11. c. 82.*

5. Slaying of Salmon in forbiddin time, or of kipper, smolts, or black fish at any time, shall be ane crime of thift. *Jac. 6. parl. 16. c. 11.*

6. It is ane point of thift to hunt, shote, or slay, Dear, Raes, in other mens closes, or Parkes, or to take out Cunnings forth of other mens cunningars, or fowles of others Dowcats, or filhe of others puilles, or stankes. *Jac. 3. parl. 7. c. 60. Mar. parl. 4. c. 9.* Quhilk paine sould be execut against them, quha takes or steales, Dowes, Hyves, and Bees, and all them quha are arte and parte, or gives assistance to sic misdoers. *Jac. 5. parl. 4. c. 12. Iac. 6. parl. 11. c. 59.*

7. Gif ane man suspect of thift, is without ane master, to find ane pledge for him; he may be demaned as ane proven and condemned theif *stat. Alex. c. 13.* *Suspect of thift.*

8. The wife of ane theif, sould not be punished for her husbands thift, except the thing stollen be him, is found within her keyes and custodie. *quon. attach. c. 12. stat. V Vilh. c. 19.* *The wife of the theif.*

9. Ane man taken with reid hand, with ane sheip, or muton, or with ane calfe, or with als meikill meat as he may beare in ane seck vpon his back, sould not be put to death, bot suld be scurged. *lib. 4. 16.* *Burdinseck.*

10. Within burgh, gif a theif is taken with threttie twa pennies, he may be hanged. *leg. burg. b. 121.*

11. The here of ane theif, not being culpable, nor consentand to the thift, sould not be disheriffed. Bot the liferent of the lands pertaining to ane theif quha is fugitiue, pertienes to his over-Lord. *lib. 4. c. 12.* And the escheit of his moveable gudes, quhither he is fugitiue or condemned to the death, sould be *The heire of ane theif.*
The pain of thift

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inbrocht to the Kings vse, *lib. 2 c. 55. 16.* be the Schiref, quha in the Checker sould make compt thereof, and of all other escheits intromitted with be him. *Stat. Rob. 3 c. 26. c. 28.*

Resettlers of thift. 12. Resettlers of thift, or of theifs, suld be punished as the principall theifes. *Stat. Alex. c. 21. Jac. 6. parl. 11. c. 101. parl. 1. c. 21.* Gif the wife flees away willinglie fra her married husband, to ane o-ther man, for licherie of her bodie, and caries away with her any gudes, or geir: He quha resettles the gudes, salbe punished as ane theif. *quon. attach. c. 85.*

OF SORNEERS.

CHAP. 14.

IVstice sould be done vpon maisterfull beggers, and sorners, as vpon theifes, or reavers. *Jac. 2. parl. 11. c. 45. Jac. 3. parl. 10. c. 77.* Bot in continent they sould be arreisted to finde caution, to satisfie the King and the partie complein and. *Jac. 1. parl. 1. c. 7.*

2. Feinzied fooles, bairdes, or rnners about, at the last, after fundrie punishments, may be hanged. *Jac. 2. parl. 6. c. 22.*

3. All Ketherains, or sorners sould be arreisted, and incontinent justice sould be done vpon them, as rebelles. And gif they will not be arreisted, they may be lesomely slane. *Stat. Rob. 2. c. 12.*

TRANSPORTING OF ARMOR AND support to the enemies.

CHAP. 15.

IT is ordainit that na man sell, giue, or transport any kind of armour, horse, or vther ealments, to the enemies of the Realme, vnder the paine of death, and confiscation of all gudes moueabil. *Stat. Rob. 1. c. 34.*

CONVOCATION AND BANDS.

CHAP. 16.

NA ligges nor bands sould be made within burrowes of this Realme, nor commotion, or rysing of commons, in hindering of the common law.

2. *Item,* na man within burgh dwelland, salbe bound in manrent, nor ryde in rout, in feir of weir, with any man; bot with the king, his officers, or with the ordinar officers within burgh.

3. *Item,* na indwellar within burgh or land, purches any lordship

ship in oppression of his neighbours, vnder paine of confiscation of their gudes, and their lives to be in the Kings will *Jac. 2. parl. 14. c. 78. Jac. 4. parl. 3. c. 34.*

4. Na man may raise any bands of men of weir, on horse, or fute, with armour, or for wages, without the Kings licence, vnder the paine of death, to be execut vpon the raisers, and also vpon them quha ryfes and convines. *Mar. parl. 9. c. 75. c. 83.*

5. Convocation of craftsmen, vsed and observed amongst them, is forbidden and discharged, as conspiracie. *Jac. 1. parl. 6. c. 85.*

6. Na lieges spirituall or temporall, may convocat, convein, or assemble themselves together, for halding of counsels, conventions; or assemble to creat, consult, or determine in any manner of estate, civill or ecclesiasticall, without his Majesties licence vnder the paines foresaid, statute against them quha vnlawfullie convocats the Kings lieges. *Jac. 6. parl. 8. c. 131.*

THE KINGS SAIFCONDUCT AND tenents. CHAP. 17.

NAne of the lieges sould breake the Kings saifconduct, vnder the paine of death. *Iac. 3. parl. 2. c. 87.*

2. All they may be punished as oppressours, quha compelles any of the Kings tenents of his propertie, to doe any maner of service. *Jac. 4. parl. 2. c. 21.*

GOLDSMITHS. CHAP. 18.

THe Deacon of the Goldsmiths, and the Goldsmiths sould keip the finenes of ellevin grains in their wark, and sould seal the samine, vnder the paine of death at the Kings will, and confiscation of their gudes. *Iac. 2. parl. 14. c. 66. Iac. 4. parl. 2. c. 13. Jac. 5. parl. 6. c. 56.*

CRAFTSMEN AND CVSTMERS. CHAP. 19.

MAisons, and other craftsmen quha takes fie for halie dayes, or beginnes ane mans warke, and leaves the samine, sould *Measons.* be punished as oppressours.

2. Na craftsmen sall take custume, sic as ane pennie from o-ther craftsmen of the samine craft, cume and to the market, vnder

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vnder the paine of death, as common oppressours. *Iac. 4. parl. 4. c. 42. c. 43. Iac. 6. parl. 19. c. 4.*

3. Customers are punished as oppressours, quha takes mair taxations, custumes, or dewties, then is statute be the law. *Iac. 4. parl. 4. c. 46.*

VVYNE.

CHAP. 20.

THey quha brings hame corrupt or mixt wyne, or selles, or toppes the samine, or that mixes wyne or beare, may be punished to the death. *Iac. 3. parl. 12. c. 88.*

CROVVER.

CHAP. 21.

CRowners, quha without the Shirefs licence, intromets with the gudes and geir of trespassours, convict before the Justiciar, commits Reit; and sould be punished therefore, as for Reif. *Iac. 3. parl. 14. c. 102.*

CAVVPES.

CHAP. 23.

CAupes sould not be taken be gentlemen, and heads of the kin in *Galloway*, and *Carrick*, vnder the paine of oppression. *Iac. 4. parl. 2. c. 18. c. 19.*

OFFERRIERS.

CHAP. 23.

Ferriers, or awners of Boats at *Kinghorn*, *Queenes-ferrie*, or *Dundie*, takand mair fraucht fra passingers, nor is prescribed be the A& of Parliament, sould be punished to the death, and be confiscation of all their gudes. *Mar. parl. 5. c. 21.*

THE PAPE AND HIS IDOLATRIE.

CHAP. 24.

Idolatric, and committers therof, sould be punished according to the lawes. *Iac. 6. parl. 1. c. 3.*

2. The Papes authoritie and iurisdiction, is abrogat; and that na person vse the samine, vnder the paine of Barratrie; that is to say, proscription, banishment, and never to bruke office, honor, nor dignitie, within this Realme. *Iac. 6. parl. 1. c. 2.*

3. Abusers of the Sacraments, or they quha administrats them, not being admitted, nor hauand power, and sayers, or hearers of Messe, for the thrid fault sould be justified to the death. *Iac. 6. parl.*

Barratrie.

Sacraments.

6. *parl. 1. c. 5.*

4. Moreover, all wilfull hearers of Messe, and concealers of the famine, should be execut to the death, and their gudes and geir confiscat to the Kings vse. *Iac. 6. parl. 14. c. 193. Iac. 6. parl. 19.*

c. 1.

5. Jesuites and Seminarie Priests, incurres the paine of death, and confiscation of all their moveable gudes. *Iac. 6. parl. 11. c. 24.*

6. All profaners of the Sacraments, all persons suspect to haue declyned fra the true Religion, or refusing to resort to the preaching of Gods word, and al restoners and dispersers of bukes, or letters to perswade any of his Majesties subjects, to decline fra the profession of the true Religion, shall tine their lifrent, and all their moveable gudes. *vid. infra. tit. 4. Crimes punished be e-*
scheit.

7. All Jeswites, Seminarie Priests, excommunicat, and tryed trafficquing Papists, shall be apprehended be the ordinar Magistrats, warded, and punished, according to the acts of Parliament. Notwithstanding the fourtie dayes, granted to other Papistes to remoue, &c. *Iac. 6. parl. 16. c. 18.*

FAMOUS LIBELS AND SEDITIONS

speeches.

CHAP. 25.

ALL they quha publickly declames, or privatly speiks, or writs any purpose of reproch, or sklander of his Majesties person, estate or government, or to deprave his lawes or actes of Parliament, or does misconstrue his proceedings, quhereby any mistaking may be moved betwix his Hignes and his Nobilitie, or subjectes, shall be punished to the death. *Iac. 6. parl. 10. c. 10.*

INJURIE DONE TO IUDGES.

CHAP. 26.

QVhasoever shall strike or hurt any Judge, within this Realme, sitting in judgement; or shall strike or hurt any person, before the Justitiar generall, or or his deputes, sitting in judgement, or within the inner zett of the Kings Palice, quhere his Highnesse makes residence for the time, or within the vtter Tolbuth of *Edinburgh* the time quhen the Lords of Session are sittand, shall incurre the paine of death. *Iac. 6. parl. 13. c. 173.*

SLAVCH.

Capitall Crimes.

SLAUGHTER OF SALMOND. CHAP. 27.

Slayers of reid fishe, or smoltes of Salmond, the thrid time are punished to the death. *Iac. 4. parl. 6. c. 71. Stat. Rob. 3. c. 7.* And sic like he quha commands the famine to be done. *Jac. 2. parl. 14. c. 87. Jac. 5. parl. 4. c. 15.* Bot now the slaughter of Salmond at any time, is ane point of thift. *vid. sup. c. 13. nu. 5. tit. 2.*

GRENE VVOOD, AND VVYLD BEASTS.

CHAP. 28.

All destroyers of grene wood, be cutting, peiling, burning, or felling, and all new haynings, for the thrid fault may be punished to the death. *Jac. 5. parl. 4. c. 10.*

2. The slayers, or shutters of Hart, Hynde, Rae, Hares, Cunnings, and other beastes, without licence of the awners, fall incur the paine and punishment of thift. *Jac. 6. parl. 11. c. 59.*

OF SHIPS

CHAP. 29.

All ships fall come to frie burrowes. Nane of the Kings lieges fall take ships to fraucht, vnder cullour to defraud his custumes, vnder the paine of rinsell of their lifes and gudes. *Jac. 4. parl. 1. c. 3.*

DEFORCEMENT

CHAP. 30.

All deforcers of Officiars in execution of their office, may be punished in their lifes and gudes, at the kings wil. *Iac. 6. parl. 11. c. 84. Stat. 2. Rob. 1. c. 21. 10. 11. stat. VVilh. c. 4.*

CRIMES



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CRIMES PVN- ISHED BE PECVNI- ALL PAINES.

TIT. 3.

SALMOND FISCHING.

CHAP. I.



ALL EARLES, LORDS,
Barons, gentlemen, and friehalders,
haue and land nixt adjacent to wa-
ters, quhere Salmond are taken and
slane, tall finde caution, that they sall
be answerable for their awintenets,
that they sall not slay any Salmond
in forbidden time; the Earle and the
Lord, vnder the paine of anethou-
sand markes. The Barcn and Gentil-
man, and others quhatsoever awners of lands and waters, vn-
der the paine of five hundreth markes. *Jac. 6. parl. 15. c. 261. Reid*
the A&S Jac. 4. parl. 6. c. 72. Iac. 2. parl. 5. c. 9.

2. The slayers of reid fishe and smoltes, for the first time, are
punished be ane vnlaw of ten pounds: the secund time, twentie
pounds: and the thrid time, be tynsell of the life, vnto the death.

Jac.

Pecuniall Crimes.

Iac. 4. parl. 6. c. 72. Jac. 2. parl. 14. c. 86. Bot now is ane point of thift, as said is. *tit. 2. c. 13. m. 5.*

Cruves.

3. Cruves and zares let in fresh waters, quhere the sea files and ebbes, sould be destroyed for ever. And they quha hes cruves in fresh waters, sould keip the Setterdayes stoppe, *Iac. 1. parl. 1. c. 11.* that is, that nane take filhe fra the Setterday after the evening prayers, vntill Monday after the Sun ryfing, *stat. Alex. c. 16.* vnder the paine of ane hunder shillings. *Iac. 1. parl. 1. c. 11.*

Setterdayes stop.

Forbidden time.

4. It is not lesome to take Salmon fish in any waters, fra the day of the Nativitie, or Assumption of the Virgin Mary, vntill the feast of Martimes. And siclike smoltes sould not be taken, or destroyed, fra the middes of Apryle, to the Nativitie of Sanct John the Baptist, *quon. attach. c. 87.* Or it is not lesome to slay Salmon fra the feast of the assumption of the Virgin Mary, vntil the feast of sanct Andrew in winter. *Iac. 1. parl. 2. c. 35.*

5. The Shiref quha casts not downe the cruves, sal pay twentie pounds to the King. *Jac. 4. parl. 2. c. 15. Mar. parl. 9. c. 68.* Or the summe of ane hundreth pounds. Quhilk summe als wa sal be payed be everie Earle, Lord, Baron, and landed gentleman, quha castes not downe Cruves, conforme to the acts of Parliament. *Mar. parl. 9. c. 68. Read Jac. 6. parl. 6. c. 89.*

*Salmon fishing.
Cruves.*

6. Certaine Commillioners are made and constitute be the estates, and King in Parliament, to execut the Acts of Parliament made anent Salmond fishing, and cruves. And gif they failzie to doe the samine, everie ane of them sal pay to the Thesaurer the summe of twa hundreth pounds. *Iac. 6. parl. 7. c. 11.*

*The heck.
The streame.*

7. The summe of five pounds sal be taken vp for ilk cruve. And of them quha makes not ilke heck of the Cruves to be thrie inch wide, and keips not the streame of the water frie, be the space of sex fute. *Iac. 3. parl. 10. c. 73. stat. Alex. c. 16.* Or five fute. *Iac. 4. parl. 2. c. 15.*

8. Na man sal set creilles, veshelles, weires, or any other ingynes, in waters, to stay the smoltes to passe to the sea, vnder the paine of ten pounds. *Iac. 2. parl. 14. c. 87.*

HERING

HERRING AND QVHYT FISCH,
fleschers and baksters.

CHAP. 2.

They quha takes herring in *Lochbrome*, or other lles, sould finde caution, that they sall returne the thrid part of their lading of herring, or quhyt fish, to frie burrowes, vnder the paine of ane hundreth pounds. *Iac. 6. par. 11. c. 57.*

2. Quha buyes fish to sell them againe, and selles them not in the Kings market, sall pay ane vnlaw of aucht shillings: Or he that selles them in time of nicht, or not in law full time of day, sall pay the like summe, quhilk paine is extended to fleshers: *leg. burg. c. 76. c. 79,* and also to the Baxsters. *leg. burg. c. 67.*

*Fishers.
Fleshers.*

3. The Cowper quha makes smaller barrels to pack fish in, then the measure of *Hamburgh*, sall pay five pounds to the King: And he quha selles the fish in smaller barrels, sall tene the fishe, to be escheit to the Kings vse. *Jac. 3. parl. 10 c. 76.* Quhilk measure sould contein fourtene gallons. *Jac. 3. parl. 14. c. 110.*

Fish barrels.

4 And last it is statute, that ilk Salmon barrell, sall contein twelue gallons of the samine stoup. *Jac. 6. parl. 4. c. 57.*

WYLD BEASTS AND FOWLS.

CHAP. 3.

NA man sould slay Daes, Raes, nor Dear in time of storme, or snaw, or slay any of their Kiddes, vntill they be ane zeare auld, vnder the paine of ten pounds. *Iac. 3. parl. 7. c. 60.*

Vid. infr. h. s. c. 48.

2 Na man sould take other mens hounds nor hawks, made or wylde out of nestes, nor egges out of nestes, within ane other mans ground, but licence of the Lord, vnder the paine of ten pounds.

*Hunds.
Halkes.*

3. And likewaies na egges sould be taken out of Pertricks, or wylde Dukes nestes, vnder the paine of fourtie shillings. *Iac. 3. parl. 7. c. 59.*

*Pertricks.
wylddukes.*

4. Quhilk paine of slaying of Daes and Raes is extended to Bee-hyves, frute-trees, peillers of barkes of trees, within woodes; and to fowllers lyand in wait with their nettes. *Mar. parl. 6. c. 58.*

*Bee hyves.
Frute tries.
Grene wood.
Fowlers.*

5 Mairover, cutters and pullers of brome, steillers, peillers,

A a

and

Pecuniall Crimes.

Brome.
Grene wood.
Zardes.
Orchards.
Dowcats.
Cunningars.
Parkes.

and destroyers of grene wood, or cuttes, or pulles haned brome, breakes Zeards, or Orchards, Dowcats, Cunningers, or Parkes, without the gude will of the awner, for the first fault, fall satisfie the partie, and pay ten pounds: And for the secund fault, fall pay to the said awner, twentie pounds: And for the thrid fault, fourtie pounds: And gif the trespassour is not responsall for the saids paines, for the first and secund faultes, he may be put in the stockes, prison, or irons; and for the thrid fault, he may be hanged to the death. *Jac. 6. parl. 6. c. 84. Jac. 3. par. 4. c. 9. Jac. 6. parl. 19. c. 3.*

6. Na Pertricks, Plovers, Black-cocks, Gray-hennes, Mure-cocks, nor sic fowles, sould be taken fra the beginning of Lentron quhill August, vnder the paine of fourtie shillings. *Jac. 1. parl. 7. c. 108.*

7. Gif any children within age, steales Pykes within stankes, breakes Dowcats, Orchards, or Zardes, steales hyves of bees, or destroyes the samine, slayes parket Deare, Raes, or Rea-bucks; their fathers or maisters sal pay threttene shillings foure pennies, for ilk time of the foresaids trespasses, or else fall deliver the said childe to the Iudge, to be leishid, scurged, or dung for his fault. *Jac. 4. parl. 6. c. 6. 9.*

Haires.
Cunnings.

8. Hares and Cunnings sould not be slane in time of snaw, vnder the paine of sax shillings aucht pennies. *Stat. Rob. 3. c. 10. Iac. 2. parl. 14. c. 89. Iac. 6. parl. 6. c. 84.*

wylde fowles.

9. Na man fall sell or buy any read of fallow Deare, Daes, Raes, Pertricks, Murefowles, Black-cocks, Aith-hennes, Termiganes, wild Dukes, Teiles, Ateils, Gordons, Mortons, Schildernes, Skail-draikes, Herons, Buteris, any sic kinde of fowles, commonlie vsed to be chased with Hawks, vnder the paine of ane hunder pounds to be incurred, als well be the buyer as the seller: and in case any of them be inabill to pay the said summe, they fall be scurged be the apprehender, throw the burgh or towne, quhere they are apprehended. *Jac. 6. parl. 16. c. 22.*

Ruikes.

10. Ruikes bigand in kirkzards, Orchards, or tries, fall be destroyed, and their birds not suffered to flee away, vnder the paine of forfaultour of the tries, and ane vnlaw of five shillings to the King. *Jac. 1. parl. 1. c. 19. Iac. 2. parl. 14. c. 85.*

wolf.

11. The Schirefs & Barons suld hunt the Wolf foure or thrie times in the zear, betwixt S. Marks day and Lambes quhilk is the time

time or their quhelpes. And the tenents shall rise with them vnder the paine of ane wadder, of ilke man not ryland. *Iac. 1. parl. 7. c. 104. Jac. 2. parl. 4. c. 88.*

12. Stalkers that slayes wyld beasts, shall pay fourtie shillings, and their menteiners, ten pounds. *Jac. 1. parl. 2. c. 36.*

SAVVING OF CORNES AND PLANTING. CHAP. 4.

COrnes, sic as pease, beanes, sould be sawin zearlie, vnder the paine of fourtie shillings. *Iac. 1. parl. 1. c. 81.*

2. Planting of woods, forrests, making of hedges, and hayning, is commanded to be done, vnder the paine of ten pounds, *Iac. 5. parl. 4. c. 9. Iac. 6. parl. 6. c. 84. Iac. 6. parl. 19. c. 2.*

3. Woods sould be planted, hedges made, and brome sawing, vnder sic paines, as law and vnlaw of the Baron, or Lord shall modifie, *Jac. 2. parl. 14. c. 81.*

ARCHARIE, GOLF, FVTBALL. CHAP. 5.

ARcharie is commanded to be vsed be all men, being of twelf zeares of age, vnder the paine of ane wedder. *Jac. 1. parl. 1. c. 18.* Or vnder the paine of fourtie shillings. *Iac. 4. parl. 2. c. 32. Jac. 2. parl. 14. c. 65.*

2. Naman sould play at the golfe. *Iac. 2. parl. 14. c. 65.* Nor at the futball, vnder the paine of fiftie shillings. *Iac. 1. parl. 1. c. 17. Jac. 2. parl. 14. c. 65.* Because they are esteemed to be vnprofitable sports for the common gude of the Realme, and defence thereof. *Jac. 4. parl. 3. c. 32.*

MVREBV RN. CHAP. 6.

MVreburn, and burning of hedder, sould be made onely in the moneth of March, vnder the paine of fourtie shillings. *stat. Rob. 3. c. 11.* At the least, vntill all the cornes be shorne: *Jac. 1. parl. 1. c. 20.* To be payed alswell be the commanders of the samine to be done, as be the doers thereof. *Iac. 4. parl. 4. c. 48.* Quhilk vnlaw is amplified and ordeined to be fiue pounds. *Jac. 4. parl. 6. c. 71.* For the secund time, ten pounds; and the thrid time, twentie pounds. *Iac. 5. parl. 4. c. 10. Iac. 6. parl. 6. c. 84.*

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THE CONSERVATOVR. CHAP. 7.

NA Merchant sould perfew ane other bezond sea, but before the Conservatour, vnder the paine of five pounds. *Jac. 4. par. 6. c. 81.*

2. Al Scottismen intending to vse factorie, or any other trade of merchandice, in the law cuntries, vnder the king of Spanes dominion, sall giue their eath, for their obedience to the King of *Scotland*, and his lawes, before the Conservatour. And sall pay to the Kings vse, for his entres, ten pounds *flemishe. Jac. 6. parl. 6. c. 96.*

3. The Conservatour sould take vp fra Merchants, quha lands not their gudes at the ordinarie staple, ten pounds *flemishe*, and deliver the same to the Thesaurer. *Jac. 6. parl. 15. c. 258.*

4. The conservatour sould come hame zealie, or send ane sufficient procuratour for him, vnder the pane of twentie pounds great. *Jac. 4. parl. 6. c. 82.*

FYRING OF G'DES IN SHIPS.

CHAP. 8.

NA gudes sould be fured vpon the over-loft of the shippes; the Merchants gudes sould not be striken vp, nor vnreasonable striken vp, vnder the paine of twentie pounds. *Jac. 3. parl. 14. c. 109. parl. 2. c. 14.*

MERCHANTS SAILAND OVER SEA.

CHAP. 9.

IN Merchandice na Merchant sall passe over the sea, except he haue thrie Serplaiths of wooll, of his awin proper gudes, or at the least committed to his governance, vnder the paine of ten pounds to the King. *Jac. 1. parl. 2. c. 83.* Or halfe ane last of guds, or sa meikil in governance. *Jac. 3. par. 2. c. 13.* vnder the said pain.

2. Na man sould sail in way of merchandices, bot gif he be a frie man of ane burgh, and indweller of the same, vnder the paine of ten pound. *Jac. 3. parl. 14. c. 160.* or vnder the paine of 20. pounds, quhilk paine the Provost and Baillies sall pay, gif they searche not, nor seikes the contraviners. And likewayes, all the Maisters, and Skippers of shippes, sall pay the said summe, quha

quha receaues any merchant to sail in their ships, without they haue their names subscribed with the hands of the Provest and Baillies. *Iac. 5. parl. 4. c. 23. vid. Iac. 6. parl. 19. c.*

CARRYING OF MONEY FORTH OF
the Realme. CHAP. 10.

Caryers away forth of the Realme of golde and silver, not pay and fourtie pennies for ilke pound as custume, sould fine the golde and silver, and pay ten pounds to the King. *Iac. 1. parl. 1. c. 15. c. 6.*

2. And all stranger merchants, quha wares not their silver vpon merchandises, sall pay the samine custume, vnder the samine paine. *Jac. 1. parl. 3. c. 49.*

BULLION SOULD BE BROCHT HAME.
CHAP. 11.

Merchants quha sailles out of Scotland, or selles wool to strangers, sould finde sicker sovertie to bring hame Bullion, vnder the paine of als meikil Bullion, as they sould bring hame. *Jac. 1. parl. 13. c. 143. And vnder the paine of ten pounds to the King. Iac. 3. parl. 7. c. 50. parl. 8. c. 64. parl. 13. c. 93. Jac. 6. parl. 15. c. 249. Or vnder the paine of the double avall of the Bullion. Iac. 4. parl. 1. c. 2.*

IDLE MEN AND BEGGERS.
CHAP. 12.

If ane man is found without ane master, he sall be charged to seik ane; quhilk gif he does not, he sall pay aucht kye, and sall be put in the Kings warde, vntill he finde ane master. *Stat. David. 2. c. 3.*

2. Schirefs, Provests, and Baillies, failzeing to put to execution the act anent beggers, sall pay to the King 31. shillings 4. pennies for ilk person quha are found beggand, and sould not be suffered to begge; that is, for ilk ane of them, quha are not cruked folke, seik folke, impotent folke, and wake folk. *Iac. 4. parl. 6. c. 70. Or vnder the pane of fiftie shillings. Iac. 1. parl. 2. c. 52. The quhilk paine is extended against the saids officiars and Judges, quha sufferes any beggers to begge, bot in their awin Parochin. Jac. 5. parl. 4. c. 21. Anent beggers many and good ordinances set downe*

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be *Jac. 6. parl. 6. c. 74.*

3. Provetts, Baillies of burrowes, sould cause keip the statuts anent beggers and lipper folke, vnder the paine of fourtie shillings. *Jac. 1. parl. 7. c. 103. c. 105.*

Lipper-men.

4. Na man sall harberie lipper men, vnder the paine of full amerciament. *leg. burg. c. 64.*

5. All Presbyteries sall take tryell, as they sall answer to his Majestie vpon their obedience, how the Sessions of the Kirk, puts to execution the acts of Parliament, made anent strang and idle beggers, quherof the execution is committed to them, be the act of Parliament made in the zeare of God 1597. quhereanent gif the Session of the Kirk is negligent, fall pay to the King twentie pounds. *Jac. 6. parl. 16. c. An. 1600.*

Robert Hude.

6. All persons, quha a landwart, or within burgh, chuses Robert Hude, fall pay ten pounds, and fall be warded induring the Kings pleasure. *Mar. parl. 6. c. 61.*

TAVERNERS AND BROVVSTERS.

CHAP. 13.

NA man sall be found in Taverns, after nine houres at night, and the bell, vnder the paine of prison. And gif the Aldermen, or Baillies puttes them not in prison, they fall pay fiftie shillings. *Jac. 1. parl. 13. c. 144.*

2. Browsters, quha makes evill aill, contrare the vse and consuetude of the burgh, fall pay aucht shillings, or fall be put vpon the cockstule. *leg. burg. c. 69.*

JVDGES.

CHAP. 14.

QWhen the King commes to any Schirefdome, all the Judges within the samine, fall repair to him, and fall not passe away without licence, vnder the paine of aucht kye. *stat. 1. Vilb. c. 3.*

2. Na man sould pley in ane other Court, then his awin masters Court, or his awin ludge, vnder the paine of the vnlaw of the Court. *Quon. Attach. c. 27.*

3. The Judge quha does not justice, or admittes frivell exceptions, thereby becommes principall debtour to the partie complener. *Jac. 1. parl. 6. c. 86. in fin.*

4. Quha hurts or straikes any person, before the Baillies of burrowes,

burrowes, Commiffares, Shirefs, Baillies of Royalties, or Regalities, or other interiour Judges sittand in judgement, fall pay ane hundreth pounds, and be impritoned induring the kings wil. *Jac. 6. parl. 13. c. 173.*

5. The ordinar Judge quha puttes not to execution the acts of Parliament, made anent the slaying and shutting of wylde fowles, and wyld beastes; for the first fault fall pay ane hundreth poundes; for the secund fault, twa hundreth poundes; and sa oft as he failzie, he fall double the said paine. *Jac. 6. parl. 7. c. 123.*

ANENT THE SCHIREF AND HIS CLERK.

CHAP. 15

THe Schiref fall present to the Justitiars Air, all persons quhilk the Crowner might not arreit for feare, vnder the paine of ten pounds. *Jac. 3. parl. 14. c. 99.*

2. He sould compeir zearlie in the Checker, vnder the paine of ten poundes, and tynsell of his office. *Stat. Rob. 3. c. 26.*

3. The Schiref suld persew fugitiues for crimes, sic as slaughter, with the horne. And ilk Gentleman being warned, and not following, fall pay fourtie shillings; and ilk zeoman, twentie shillings. *Jac. 1. parl. 6. c. 98.*

4. Gif ane complains to the Schiref, and desires lawborrows of ane other man; and the Schiref doe not his office thereanent, he fall pay fourtie poundes. *Jac. 1. parl. 9. c. 129. Jac. 2. parl. 6. c. 13.*

5. The Schiref Clerk found culpable in his office, and specialie anent Registration of letters of horning, the Schiref fall pay for him ane hundreth pounds, and the damage to the partie. *Jac. 6. parl. 11. c. 71.*

6. Schiref Clerkes, fall present their Registers to be marked be the Clerk of the Register, and his deputes. And fall giue forth na extract subscribed be them, except the samine expresslie contene the number of the leafe of the buke, quherein the samine is contained, vnder the paine of ane hundreth markes, *toties quoties.* *Jac. 6. parl. 16. c. 20.*

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OF THE PERSEVVER. CHAP. 16.

QWhen wrang is done to any man, gif he compleines not theranent first to his master, or to the Shiref, before he makes his complaint to the king, sall pay aucht kye. *stat. David. 2. c. 8.*

2. Na man sould pley in the Court of any other man, bot in his awin masters Court, or before his awin Judge, vnder the paine of the vnlaw of the Court. *Quon. Attach. c. 27.*

3. The persewer in the criminall causes, sall finde caution to report the letters, dewlie execut, and indorsed, vnder the paine conteined in the letters, that the partie is called vpon. *Jac. 5. parl. 4. c. 34. Jac. 6. parl. 6. c. 78.*

4. Gif the partie persewed is found innocent, be ane assise; or gif the persewer summons ane assise, fra the far partes of this Realme, and passēs fra persute at the Bar: And the partie acquite be ane person, or mae within the number of ten, the persewer sall pay the summe of ten pounds: and gif they be mae then the number of ten, the summe of twentie pounds. *Iac. 6. parl. 6. c. 78. parl. 11. c. 87.*

5. The persewer being found in the wrang in persewing ane assise for errour, sall pay to the king ten pounds, and the exspenses to the defender. *Jac. 3. parl. 6. c. 47.*

6. Gif ane man accuses ane other of thift, or reif, and he is found innocent; the accuser sall pay ten pounds, and make ane mends for the sklander. *Iac. 5. parl. 1. c. 2.*

7. He quha compleins vnjustlie vpon ane other of *Novelle dissaisine* (that is, *ejection or spolzie*) sal pay ten pounds. *stat. Al. c. 8.*

8. The persewer in ane caule of treason, failze and in probation, committes treason. *Iac. 6. parl. 1. c. 49.*

9. The Justice Clerk and his deputes, at the granting of letters, sall take sovertie for againe bringing of the letters, dewlie execute, and indorsed; and that the raisers thereof, sall persew the samin letters, at the day appointed, vnder the paines contined in the acts of Parliament. *stat. Rob. 3. c. 29. stat. Alex. c. 10. stat. 1. Rob. 1. c. 33. Iac. 6. parl. 6. c. 78. Iac. 5. parl. 4. c. 34. Iac. 6. parl. 13. c. 166.*

10. The persewer not compeirand to persew his summons before the Lords, payes fourtie shillings to the Lords; and the exspenses to the partie, before he be heard to persew. *Jac. 4. parl. 3. c. 35.* And he being found in the wrang, in any action before the
Lords

Lords of Counsell, he shall pay 40 shillings to the King, and the expenses to the partie. *Jac. 3. parl. 6. c. 49.*

OF THE DEFENDER.

CHAP. 17.

THe defender being summoned, and is contumax, not compeir and, the first day he shall pay the parties expenses, and 12. shillings to the king: and gif he is absent at the second summons, he shall pay the saids expenses, and 40. shillings to the king: and gif he compeirs not at the thrid summons, with the saids expenses to the partie, he shall pay 4 pounds to the king. *Iac. 2. parl. 6. c. 30.*

2. The principall partie defender, or his procuratour, quha propones frivoll exceptions to delay his partie, shall pay 20. shillings to the helpe of the poore. *Jac. 6. parl. 6. c. 91.*

DECREITS AND SENTENCES.

CHAP. 18.

THe partie against quhom the sentence is given, shall pay fourtie shillings, to the Lords, and expenses of the partie. *Jac. 3. parl. 6. c. 49.*

2. The partie against quhom decreit is given of liquidat summes before the Lords of Session, shall pay to them 12. pennies of ilk pound; & for all decreits consistand in *facto*, he shall pay five pounds, & the expenses of the partie. *Iac. 6. parl. 11. c. 43.*

3. The partie against quhom decreit is given within burgh, shall pay to the support of the pure, twelve pennies of ilk pound, conforme to that quhilk is obtained against him, and the expenses of his partie. *Iac. 6. parl. 6. c. 91.*

UNLAWVS OF COURTS AND FIRST
of Parliament.

CHAP. 19.

ANent all Earles, Lords, and Barons of Parliament, Prelat, or burgh, being lawfullie warned, and absentes them selues fra Parliament, without lawfull excuse, admitted and allowed be the Lords of the Articles, it is statute that every Earle shall pay thrie hundreth pounds, and everie Lord, one hundreth pounds: everie Prelat, twa hundreth pounds: and everie burgh, one hundreth markes: Quhilk paine is extended against them, quha rydes not decentlie with fute-mantelles, quha shall be reput as absents. *Iac. 6. parl. 11. c. 34.*

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2. Ilk estate sould haue in seemlie fashon, thrie apparrels in Parliament, vnder the paine of twa hundreth pounds. *Iac. 6. parl. 11. c. 36.* quhilk forme and maner is prescribed. *Iac. 2. parl. 11. c. 4.*

3. Ilk burghs quhere the Parliament sits, or generall Counsell fall be halden, fall make convenient Sieges, to the Commissioners to sit on, vnder the paine of ten pound. And the fore-speakers in Parliament, fall haue ane speciall kinde of habite of grene colour, vnder the paine of fiue pounds. *Jac. 1. parl. 11. c. 47.*

VNLAWVS OF SECRET COUNSELL and Checker. CHAP. 20.

THe vnlaw of them quha are absent fra the secret counsell, and sould compeir there as counsellours, is ten pounds. *Iac. 1. parl. 7. in princi.*

2. They quha compeirs not to make compt in the Checker; as likewise the auditours nominat be his Majestie, not compeirand, fall pay the summe of fourtie pounds. *Jac. 6. parl. 11. c. 63.*

VNLAWV IN THE CHALMERLAN AIR.

CHAP. 21.

THey quha compeirs not before the Chalmerlan in his Air, or Court, fall pay fiftie shillings. *leg. Malc. 2. c. 8.*

VNLAWV BEFORE THE IVSTICIAR generall. CHAP. 22.

THe amerciament or vnlaw in the Justice air, before the justice vpon the north side of the water of *Forth*, called the Scottes sea, is aucht kye; and to the Crouner ane zoung kow; and to his Clerk twa shillings. And bezond the Scottes sea, as in *Lowthian*, and these partes betwix the water of *Forth* and *Tyne*, ten pounds, and ane *Colpindach* (ane zoung kow, called ane *quyach*) or threttie pennies to the Crouner, and twa shillings to his Clerk. *leg. Malc. 2. c. 8.*

2. The vnlaw of all persons arreisted, and not compeirand at the first Justice Air, over all the Realme in all time comming, fall betwentie pounds. *Iac. 6. parl. 13. c. 166.*

3. Ilk Earle, Lord, Baron, and Friehalder, fall answeire in the justice Aires for his awin men, and fall be halden to enter them to the law, or else fall answeire for their vnlaw. *Iac. 3. parl. 3. c. 2.*

4. The

4. The paines and vnlawes of Lawborrowes, or for not againe bringing of letters to the Iustice Clerk, and his deputes, or for none compeirance before the Iustice, after sovertie found, shall be for everie Earle, or Lord, twa thousand pounds: for everie great Baron, ane thousand pounds: for everie friehalder, ane thousand markes: for everie Fewer, five hundreth markes: for everie Zeoman man, ane hundreth markes: for everie Gentleman vnlanded, twa hundreth markes. *Iac. 6. parl. 13. c. 166.*

Lawborrowes.

5. He quha is Officiar of any Cuntrie, or he quha indytes ane other in any action, or cause, shall not passe vpon his assise vnder the paine of ten pounds. *Iac. 1. parl. 3. c. 50.*

Assise.

6. In Iustice Airs, and in particular dyets and courts before the Justice, all they quha are summoned to passe vpon assise, sould be called, and the absents sould be americiat. *Iac. 6. parl. 11. c. 76.* The quhilk vnlawes shall be taken vp be the Thesaurer. *Iac. 6. parl. 2. c. 126.* Quhilk vnlaw of ane assisour not compeirand, is fourtie pounds. *Iac. 6. par. 11. c. 81.* or ane hundreth markes. *Iac. 6. parl. 13. c. 166.*

VNLAW IN THE COVRTS OF SCHIREFS, Barons, Friehalders, and Burrowes.

CHAP. 23.

THE vnlaw before the Schiref, sould not exceid saxtene shillings. *leg. Malc. 2. c. 8.* And for his Clerks fie, twa shillings, or ane Colpindach, and threttie pennies to the Schirefes Sergent. *ibidem.*

2. In the Baron Court, the samine lawes and vnlawes, sould be keiped, quhilks are vsed in the Schiref court. *leg. Malc. 2. c. 8.* Or the vnlaw of the Baron Court; is fourtie shillings. *Iac. 2. parl. 14. c. 64.* And consequentlie is now twentie pounds. *Iac. 6. parl. 15. c. 267.*

Nota.

3. They quha halds their lands of Barons, sould haue the half of the Barons vnlaw. *leg. Malc. 2. c. 8.*

4. They quha halds their lands, of the saids Friehalders, shall take the halfe of their vnlaw, and swa forth. *leg. Malc. 2. c. 8.*

5. VVithin burgh, the vnlaw is aucht shillings. *leg. Malc. 2. c. 8. leg. Burg. c. 42.* Ilk Burgh absent fra the convention of Burrows shall pay twentie pounds. *Iac. 6. parl. 7. c. 119.*

OF-

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OFFICIARS AND SERGENTS.

CHAP. 24.

THe Kings Sergents, and Sergents of Regalitie sould haue ane wand, and ane horne, vnder the paine of fourtie shillings: And the Barons Sergents, vnder the paine of the vnlaw of the Baron Court: And the Sargent within burgh sall haue ane reid wand, vnder the paine of aucht shillings to be payed to the King. *Iac. 1. parl. 6. c. 99.*

ANENT ARBITRIE. CHAP. 25.

FRiends, and arbitours chosen betwix parties, for reconciliation of deadlie fiedes, quha neither deceirnes, nor reportes the causes of their dilagrieance to the Kings Majestie, within threttie dayes after their acceptation, everie ane of them sall incurre the paine of anethouland pounds, to be employed to his Majesties vle. *Jac. 6. parl. 16. c. 21.*

ANENT INIVRIE, AND SKAITH DONE be men or beastes. CHAP. 26.

HE quha beates or strikes ane other within burgh, or doest to him any injurie, he sall pay ane vnlaw, and all the damage or skaith quhilk his adversar taxes vpon him. *leg. burg. c. 103.*

2. Injurie done to any man within girth, is punished be divers paines, conform to the quantitie of the injurie. *stat. Vvil. c. 5.*

3. Gif ane mans ox hurt or wound ane other mans ox to the death; the price of the dead ox, with his carkase, sall be divided betwix the awners of the twa oxen. And gif ane man straiks ane other mans ox, and slayes him malitiousslie, he sall pay the price of the ox; and gif he please, he sall receaue the carkase of the dead ox. *stat. 1. Rob. 1. c. 32.*

CLAVVCHANS AND HOSTILLARIES.

CHAP. 27.

ILk man sall dwell at hame in his awin house; and buirding of them within burrowes, clauchans, and aill-houtes is ditcharged. Ilk Lord and Prelat, vnder the paine of five hundredth markes; ilk landed gentleman, vnder the paine of twa hundredth markes. *Iac. 6. parl. 7. c. 116.*

2. All

2. All men travelling through the cuntry sould lodge within hostillaries: and gif any vther then hostillaris receiue any strangers, they fall pay fourtie shillings. *Jac. 1. par. 3. c. 56.*

BANKETS, AND PRICE OF

Bankets, Drogs, and Confections, brocht from partes bezond the sea, are discharged vnder the paine of twentie pounds. *Jac. 6. par. 7. c. 121.*

2. All Earles, Lords, Barons, and Burrowes, negligent in the execution of the acts made anent the prices of all stuff, fall pay ane hundredth pounds. *Jac. 6. par. 7. c. 121.*

LAMBS, VEALS, LENTRONS.

NA Lambs, nor Veals within zeate aulds, sould be slane, or eaten before VVintsonday yearlie. And na man sall eatte on VVednesday, Fryday, or Satterday, nor in tyme of Lentrone, quhilk is ordained to be fra the first day of March, untill the first day of May exclusive, vnder the paine for the first fault, of 10. pounds: for the secund fault, 20. pounds: for the thrid fault 40. pounds. *Jac. 6. par. 14. c. 123.*

FERRIERS. CHAP. 30.

Ferriers and Boatmen, quhere horse are ferried, sould haue for ilk boat, ane bridge of trie, vnder the paine of fourtie shillings. *Jac. 1. par. 3. c. 59. Jac. 3. par. 7. c. 61.* And they sould take sic fraucht as is prescribed be the Act of Parliament. *Jac. 3. par. 7. c. 61.* vnder the paine of five pounds. *Jac. 3. par. 10. c. 74.* And being convict before the Justice in his Air, the first time, they fall pay the value of the boat: the second time, the boat to be escheit: and the thrid time, to be suspended fra the office, for all the dayes of their life, and imprisoned at the Kings will. *Jac. 3. par. 13. c. 90.*

BROVVSTERS, HVKSTERS, FLESCHERS, CHAP. 31.

Browsters, Heklers, Fishers, huksters, within burgh, sall be commonlie to all men, and fall not kepe in their houses. *Jac. 3. par. 13. c. 90.*

Crimes pecuniall.

aboue the valour of foure pennies to their awne vse. *Leg. burg.*
c.72.

FORESTALLERS.

CHAP. 32.

NA man dwelling within burgh, or without the samin, fall in the market day, passe furth of the portes of the burgh, to buy anie thing. *leg. burg. c.86.*

WATCHING WITHIN BURGH.

CHAP. 33.

HE quha within burgh, refuses to walk and watch, after that cover feu is rung, vntill the morning, fall pay aucht shillings. *leg. burg. c.72.*

ANENT FIER.

CHAP. 34.

HEmp, lint, straw, hay, hedder, nor brume, suld not be placed neire, or aboue the low, in fyer houses, within burrowes, or through faire townes, vnder the paine of ane vnlaw, and the magistrates being negligent to cause this to be observed, fall pay fourtie shillings. *Jac. 1. parl. 4. c.71.*

2. The samin paine is extended to sellers of hay, or fodder, and hes not ane lanterne. *Jac. 1. parl. 4. c.74.*

3. And also against all burrowes, quha hes not six, seven, or aucht ledders, ilk ane twentie fute lang, in ane readie place of the towne. *Jac. 1. parl. 4. c.73.*

4. Na fier fall be caried fra ane house to ane vther, bot in ane covered vessell, or lanterne, vnder the paine of ane vnlaw. *Jac. 1. parl. 6. c.75.*

5. Governours of the towne, negligent in their office, touching the ordinances made anent fire, fall pay ten pundes. *Jac. 1. parl. 6. c.75.*

6. Fire in husband townes of Barons, fall be punished by their Lords, in like maner as baillies, and governors dois within burgh.

HVRES.

CHAP. 35.

NA man dwelling within burghs, suld set their houses, within the hart of the towne, to hures, or common women, or resett them, vnder the paine of ane vnlaw. *Jac. 1. parl. 4. c.74.*

S KVLES.

SHVLES.

CHAP. 35.

ALL Barons, and friehalders of substance, quha haldes not their eldest sonnes & heires at the schules, vntil they be funded in latin: and thereafter at philosophie, and the lawes, fall pay twentie pundes. *Iac. 4. parl. 5. c. 54.*

COMMISSIONS.

CHAP. 36.

HE quha obtaines ane commission of Justitiarie sal finde suretie at the chācellarie, that within fourtie daies thereafter, he fall report ane testimoniall of his diligence, vnder the paine of fourtie pundes. *Iac. 6. parl. 11. c. 75.*

ANENT STIEPING OF GREENE

lint in waters.

CHAP. 37.

NA greene lint, suld be laid in lochs, or running burnes, vnder the paine of fourtie shillings, *toties, quoties*, and confiscation of the lint, to the help of the pure of the paroche, within the quhilk the loches, and the burne lies. *Iac. 6. parl. 16. c. Anno. 600.*

CLEITHING.

CHAP. 38.

THe costlie excelle of cleithing, and abulzament of mens bodies, is punished be certaine pecuniall paines, conforme to the qualitie of the person. *Jac. 6. parl. 7. c. 113.*

WAPINSHAWING.

CHAP. 39.

WApinshawing suld be made be all men, betwixt sextie, and sextene zeares of age, vnder certeine paines pecuniall. *Iac. 4. parl. 3. c. 31. Iac. 5. parl. 6. c. 87.*

THE ADVERSARIES OF THE

trew religion.

CHAP. 40.

THe adversaries of the trew religion, or they quha hes declined therefra, fall not returne, or remaine within this realme, except they recant their errors, and professe the trew religion, or els finde caution to depart furth of this realme within fifteene daies, vnder the paine of five hundreth markis: they fall not resort to the King within seauen miles: they fall not teach any erroneous doctrine, vnder the samin paine. *Jac. 6. parl. 7. c. 106.*

Crimes pecuniāll.
NON COMMUNICANTS.

CHAP. 41.

ALL our Sovereine Lords lieges, sall communicate ance, everie zeare. And sal na waies pretend any excuse of dedly faide, rancor or malice, toward their neighbors. And gif they being first lawfully required, be their pastor, or presbyterie to do the samin, refuses, or delaies, being ane Erie, sa oft as he contravenes the premises, sall pay to the Thesaurer, ane thousand pundes. Everie Lord, ane thousand markis. Everie Baron, five hundredth pundes. Everie freichalder, thrie hundredth markis. Everie zeaman, fortie pundes. And everie burges, according to the modification, of the Kings Majestic, and Lords of secret counsell. *Iac. 6. parl. 16. c. 17.*

BIBELL, AND PSALME BVIKES.

CHAP. 42.

ALL gentilmen, and vther houlsholders, burgeses, and vthers. Sall haue ane Bibell, and psalme buike, in their house, vnder the paine of ten pundes. *Iac. 6. parl. 6. c. 72.*

ABOMINABLE EATHS. CHAP. 43.

QWhatsumever persons sweirs abominabill eaths, sall paie ane certen summe of monie, to the sustentation of the pure. *Mar. parl. 3. c. 16.*

PERTURBARS OF THE KIRK.

CHAP. 44.

Perturbars of the kirk in the time of preaching, or divine service, are punished be ane pecuniāll paine, according to the qualitie of the person. *Mar. parl. 3. c. 16.*

FORNICATION. CHAP. 45.

Committers of the vice of fornication, for the first fault, sall pay the summe of fourtie pundes: or els sall be imprisoned, & set at the market place, openlie be the space of twa houris: & for the secund fault, they sall pay the summe of ane hundredth marks. &c. And for the thrid fault, and how oft they sall be thereafter convict, sall pay ane hundredth pundes. &c. *Iac. 6. parl. 1. c. 13.*

2. Gif ane woman being heretice of wardlands, in the time of hir ward, and before hir mariage, commits fornication, the tines, and forfalt her heritage. *lib. 2. c. 49. c. 55. 9.*

HA-

HALIE DAY.

CHAP. 46.

NA man suld labour, or vse anie handie wark vpon the Sabbath, nor vse gaming, or playing, passing to taverns, and ail houses, selling of meate, or drinke, or willfullie remaine fra the paroch kirk, in time of sermon, or prayers, vnder the paine of twentie shillings. *Iac. 6. parl. 6. c. 70.*

PILGRIMAGE.

CHAP. 47.

Pilgremage to chappels, wales, croces, obseruation of festuall daies of Saints, called patrons, setting furth of bane-fires, singeing of caralls, within, or about kirks, is discharged, and punished, viz. ilk gentleman or his wife landed, ane hundreth pundes: and vlanded, ane hundreth markes. And ane zeaman, fourtie pundes, for the first fault: and for the secund time, the offenders to suffer the death, as Idolaters. *Iac. 6. parl. 7. c. 104.*

HAWKING AND HVNTING.

CHAP. 48.

NA man suld ride or gang in their neighbours cornes in hal-king, or hunting, fra patche vntill the samin be shorne. Na man suld ride nor gang vpon quheat na time of the zeare. Na Pertrik suld be takin vntill Michaelmas. Na persons ranges vther mens woods, parkis within dikes, or brumes, without licence of the awner of the ground, vnder the paine of refounding the skaith to the partie, and ten pundes to the King, for the first fault: twentie pundes for the secund fault: and confiscation of moveable gudes for the thrid fault. *Mar. parl 6. c. 51.*

2. Na man fall hunt, nor halk within the boundes of sixe miles to any his Highnes woodes, parkis, castells, and palices, vnder the paine of ane hundreth pundes. *Iac. 6. parl. 14. c. 210.*

3. All shuters at wild beast, or fowle within any part of this *wild beasts and* Realme, fall be subiect to the said paine. *Iac. 6. parl. 14. c. 210. fowles.* Thifteous steilers of bies, and fishes in proper stankes or loches, *Stollen bies or* are punished be ane pecuniall paine. *fish.* *Jac. 6. parl. 19. c. 3.*

PASTVRAGE.

CHAP. 49.

HE quha breakes downe his neighbours parke, dikes, fences, stankes, cuts trees, brume, or shiere girie, or pastours within fences, is punished be pecunial paines. *Jac. 6. parl. 19. c. 3.*

Crimes pecuniall.
 AMPLIFICATION OF PECVNIAL
paines. CHAP. 50.

COncerning pecuniall paines, and vnlawes, conteined in the Lawes of this Realme, made and constitute before the first day of March, in the zeare of God 1542. Gif any man contravenes any law, or act of Parliament made before the same time, and zeare, containing ane speciall pecuniall paine, and vnlaw: he sall pay for ilk twelue pennies of the auld vnlaw, ten shillings, of present money of this Realme. And for ilk twentie shillings of auld, ten poundes of present money, and swa furth proportionallie, *1 ac. 6. parl. 15. c. 267.*

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*ane vther paine, as be escheit of mo-
 veable gudes, or vther wayes.*

TIT. 4.
 ESCHEITS OF REBELS.
 CHAP. 1.



IF ANE MAN DISOBEDIENT
 to the Kings lawes, is denounced rebell, and
 put to the horne, for any Criminall or Civil
 cause; albeit he be relaxed fra the horne there-
 after; nevertheles the horning and denunci-
 ation stand and not reduced; all his moveable
 gudes, together with the issues, and profits
 of his lands, be the space of the first zeare after his rebellion, fall
 pertain to the King: notwithstanding that his lands be halden
 of ane vther ourlord, then the King. Bot the zeare and day being
 outrunne, and bygan, and the rebell remaining at the horne, the
 profits of his lands haldin of the King, fall pertain to the King.
 And the fruites and commodities of his lands halden of ane v-
 ther ourlord, fall pertain to him, induring the lifetime of the re-
 bell. *lib. 4. c. 34. quon. attach. c. 18. lib. 2. c. 55. Stat. Rob. 3 c. 19. Stat. 2.
 Rob. 1. c. 22. Jac. 4. parl. 4. c. 31. Jac. 6. parl. 3. c. 49.* Except ane man
 be denounced to the horne for treason, and lese Majestie. In the
 quhilk case, his escheit of moveables and lands pertain to the
 King onlie. Because treason is committed against the King, and
 therefore the paine thereof, is applyed to his vse and commodi-
 tie.

Crimes nether capital,

tie. *Jac. 5. parl. 4. c. 31.* The quhilk paines are extended to all possessors of benefices, pensions, portions, and vther sic ecclesiasticall rents, being ordinarlie denounced rebels, and put to the horne, and remainand thereat atour the space of ane zeare, and ane day. *Iac. 6. parl. 3. c. 49.*

ADVERSARIES OF THE RELIGION.

CHAP. 2.

ALL ecclesiasticall persons not subscrivand the religion, tyne *ipso facto* their benefice. And al these quha mainteins ony contrair doctrine, shall be deprived. *Iac. 6. parl. 3. c. 46.*

2. Contemners of the sentence, and decreit of the assemblies, and Judicatoris of the kirk, may be denounced rebels. *Iac. 6. parl. 13. c. 60.*

PAPISTS.

CHAP. 3.

Papists, and all persons suspect of Papistrie, quha being summoned before the presbyterie, and also before the secret counsell, compeirs not, or compeirs and refuses to giue their obedience, and make satisfaction anent their religion, may be denounced rebels, and tyne all their moveable gudes, and also their liferentes.

2. Quhilk is also to be vnderstand of all their resettlers, suppleares, and maintainers. *Iac. 6. parl. 14. c. 194.*

3. The samin paine is extended to all them, quha hes, makes, sells, or disperfes bukes, in defence of the Pape, or his doctrine. *Iac. 6. parl. 7. c. 106.*

CURSING, OR EXCOMMVNICATION.

CHAP. 4.

QWhen any cursed persons, remaines vnder the sentence of cursing attour the space of ane zeare, and ane day, resortes to the Lords table, he shall be punished by escheit of all his moveable gudes. *Mar. parl. 4. c. 7.*

2. All breakers of the freedome and liberties of halie kirk, may be cursed. And they against quhom the proces of cursing is ledd, and deduced, shall not be receaved in the Kings castell or place, or in his presence, nor shall not be admitted in counsell, nor Parliament, nor shall not be hard, nor answered in judgement of sic,

hie, and heritage, nor vther causes, bot ever eschewed vnto the time they obtaine absolution, in forme of lawe. *Jac. 2. parl. 4. c. 7.*

3. Quhen any person susteins cursing be the space of fourtie daies, his gudes may be poynded, his person takin, and he may be denounced rebell. *Jac. 5. parl. 4. c. 8. c. 35. Jac. 6. parl. 3. c. 53.*

4. Mairover curted persons, or infamous, may not be witnes, beare office, or dignitie, *stat. V Vilh. 1. stat. 2. Rob. 1. c. 34. stat. Rob. 3. c. 14.*

5. Gif they resert within the kirk, they may be imprisoned, *Jac. 6. parl. 11. c. 27.*

6. Papists not recantand their papisticall errors, and all these quha communicats not with the Sacraments, being lawfullie admonished vpon threescore of dayes, may be excommunicate. And al persons disobedient, obstinate, and relapse, are infamous, vnable to stand in judgement, perfew, beare office, nor fall not be admitted to beare witnes, or to be assessours against anie professing the trew religion, nor to be Judges principall, or deputies, members of court, officers, parties, procurators, persons of inquest, nor the depute of the judge principall excommunicate, or the procuratour quha will compeir for the excommunicate, fall not be hard to proceid, or compeir in judgement. *Jac. 6. parl. 3. c. 45.* All Archbishops, Bishops, Superintendents, or Commissioners that presents not ane roule, and catalogue of the names of the papists, non communicants, disobedients, obstinate, and relapse persons, fall tine the fruites of their benefices for zeare and day. And everie commissioner fall tine his stipend for the said space, and fall be deprived of his office. *Jac. 6. parl. 3. c. 45.*

Papists non communicants.

Relapse.

PERTVRBERS OF THE KIRK, AND of ministers. CHAP. 5.

Q Whatsumever person perturbs the order of the kirk in time of divine service, or makes any tumult, raises any affray, either in kirk, or kirkzard, quhairthrow the peopill then conveyned, fall happin to be disordered, trubled or disperfed; the samin fall be ane point of dittay, and the saids persons fall tyne all their moveable gudes, as escheit. *Jac. 6. parl. 11. c. 27.*

2. The samin paine is extended against all them, quha invades any minister, or puts hands in him. *Jac. 6. parl. 11. c. 27.*

PER-

Crimes nether. capitall,
PERIVRIE AND BIGAMIE.

CHAP. 6.

Bigamie is punished as perjurie, that is be confiscation of all moveable gudes, warding of the persons, and infamie. *Mar. parl. 5. c. 19. lib. 4. c. 29.*

OCKER AND VSVRIE.

CHAP. 7.

Vsurers continuallie vsing the crime of vsurie, vntill the time of their death be the auld lawes of this Realme, after their deceis, they and their aires, was forefalted as traitors. *lib. 2. c. 54. Quia pœna vsurarij vivi pertinebat ad Ecclesiam, mortui vero ad Regem.* But now gif any man commits vsurie directlie, or indirectlie, that is, takes mair annuell then ten for the hunder, or fiue bowes of victail, he fall tyne the principall summe, &c. *Jac. 6. parl. 11. c. 52. parl. 14. c. 122.* Quhilk summe togidder with all annuells of all zeares vnpaied, fall pertaine to the King. *Jac. 6. parl. 15. c. 247. parl. 16. c. An. 1600.*

SABOTH DAY, AND MARKETS.

CHAP. 8.

NA markets, nor faires, fuld be hal den vpon the Saboth day, nor within kirk, or kirkzeards, vnder the paine of escheit of the gudes, to the vse of the pure of that parochen. *Jac. 6. parl. 6. c. 70. parl. 14. c. 148. Jac. 4. parl. 6. c. 83.*

2. All men passing to the market, of ane vther Shereifdume, nor quhair he dwells, with his gudes to sel them, he fall pay aucht shillings, and tyne the gudes. *Stat. 2. Rob. 1. c. 32.*

ANENT MINISTERS.

CHAP. 9.

Ministers provided to benefices, and making dilapidation thereof, may be deprived of their function of ministerie, and also of the benefice, and their dispositions to be null. *Jac. 6. parl. 7. c. 101.*

2. Ministers, and possessours of benefices, sal giue vp ane iust rentall of the temporalitie, conforme to the first assumption of the thrids, vnder the paine of the tinsell of their benefice. *Jac. 6. parl. 15. c. 244.*

BAR-

Barratrie is punished be prescription, banishment, and exclusion from al offices, honour, and dignitie, within this realme.

Jac. 6. parl. 1. c. 2. Jac. 6. parl. 3. c. 51.

BEGGERS, SORNERS, AND

others.

CHAP. 11.

NA man suld be suffered to beg, of the age, betwix fourteene zeares, and thriescore ten zeares: And all beggers suld haue ane mark, or taiken, vnder the paine of burning vpon the cheik, and banishment. *Jac. 1. parl. 1. c. 25. parl. 2. c. 42.*

2. Common sorners, vagabonds, maisterfull beggers, fained fules, and counterfeit Egyptians, suld be expelled furth of the cuntrie. *Jac. 6. parl. 12. c. 140.*

3. All inhabitants of this realme, suld assist the Scherif, to take, and apprehend, all ketherains, and sorners: And gif they failze to doe the samin; they fall tyne their offices, gif they any haue, and mairover fall incutre the Kings reprove: *Stat. Rob. 2. c. 12.*

*Sorners.
Vagabonds.
Feined fules.
Egyptians.*

4. Lipper folk fall not enter within burgh, or kirk, or kirkzeards, vnder the paine of banishment. *Iac. 1. parl. 7. c. 105.*

Lipper folk.

5. Idill men suld be compelled to passe to the Kings ships, and labour therein, vnder the paine of banishment. *Jac. 4. parl. 4. c. 49.* because idell men quha hes not of their awne, suld be kied in ward, vntill they finde borgh and caution, that the cuntrie fall be vnskeithed of them: and the samin being funde, the Sherif fall cause them get ane maister: or to fasten them to ane lawfull craft. And gif they failzie, they sal be put in prison, and punished at the Kings will. *Jac. 1. parl. 3. c. 66.*

Idell men.

6. Gif anie Provest, Baillie, Counsell, or communitie, chuse Robert Hude, littell Iohn, Abbat of vnreason, queins of Maij: the chusers fall tyne their friedom for fiue zeares: and fall be punished at the Kings will: and the acceptor of sick ane office, sal be banished furth of the Realme.

Robert Hude.

7. And gif sick persons are chosen alandward: the chusers sal pay ten pundes, and fall be warded induring the Kings pleasure. *Mar. parl. 6. c. 61.*

OF

OF JUDGES. IN CASES

Gif ane Judge continue his court maliciouslie, he fall tyme al his gudes and office; and his life fall be in the Kings will. And gif the Iudge is Earle, Baron, or friehalder; he fall tyme his court for ever. *stat. 1. Rob. 1. c. 31.*

2. Ane Judge negligent in doing justice, or admittand frivol exceptions, becomes debtour to the partie compleinand. *Iac. 1. parl. 6. c. 86.*

3. And gif he does the samine wilfullie, he fall not onely as fyth the partie, bot also tynes his office for zeare and day, or for thrie zeares. *Iac. 3. parl. 5. c. 26. Iac. 4. parl. 3. c. 28.* Gif he hes the samine in heritage, and punished in his person, and gudes, after the Kings will. And gif his office is not heretable, he fall tyme it for all the zeares he hath it, and be punished, as said is. *Iac. 2. parl. 6. c. 17. parl. 14. c. 77. Read Iac. 3. parl. 14. c. 105.*

4. Na Judge fall take rewarde nor buds, further then is permitted be the law, vnder the paine of tinsell of his honour, fame, and dignitie. *Iac. 5. parl. 7. c. 104.* And vnder paine of confiscation of all his moveable gudes, and tinsell of his office, and punishment of his person at the Kings will. *Iac. 6. parl. 6. c. 93. stat. 1. Rob. 1. c. 22. stat. 1. Vilh. c. 25.*

5. Judges and Magilstrats negligent in execution of the acts of Parliament anent abominable eaths, may be warded. *Iac. 6. parl. 7. c. 103.*

SCHIREES, SCHIREE CLERKS, AND

Gif they quha comes not to the Schiref Courts in sober maner conforme to the Acts of Parliament, disobeyes the Schiref; he may call them, and punish them, be warding of their persons, for ane zeare; & als to pay the expenses to the partie dampnified. *Iac. 3. parl. 14. c. 104.*

2. Schirees, Stewards, Baillies of Burrowes and to land, fall execute decreits, and fall take twelue pennies for ilk pound, and gif they failzie, they fall pay the expenses, and principall summe recovered to the partie, and fall tyme their offices. *Iac. 4. parl. 3. c. 30. Iac. 5. parl. 5. c. 58.*

nor pecuniall.

Tit. 4.

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3. Gif the Scherif clerk, dois nocht his duction in registering of letters of horning, presented to him; he fall tyne all his moveable gudes: and the Scherif fall pay ane hundreth pundes. *Iac. 6. parl. 11. c. 71.*

4. Gif the Scherif clerk brings nocht his buke, to be noted, and marked be the clerk of the Register, togidder with ane authentick copie zeirlye, to remaine in the register: he may be imprisoned, or denounced rebell. *Iac. 6. parl. 13. c. 271.*

REGALITIE.

CHAP. 14.

Gif any Lord of Regalitie sells any theif: or fines with him for theift done, or to be done, he fall tyne, and amit his regalitie. *Iac. 1. parl. 13. c. 137.*

2. Baillies of regalitie, quha concurre nocht, nor assiste the Scherif in taking, and punishing, oppressours, and malefactors fall be punished be the King, be tinsell of their landis, and escheir of their gudes, and gif the Lords of regalitie punish not their Baillies being culpable: they fall tyne their lands, and priviledge of regalitie. *stat. Rob. c. 14.*

ASSYSOVSRS.

CHAP. 15.

They quha commits willfull error, being vpon ane assise, fall be punished be escheir of all their moveable gudes, be imprisoning of their bodies, be the space of ane zeare and ane day, and be infamie. *lib. 1. c. 14. Iac. 3. parl. 6. c. 47. parl. 8. c. 63.*

WRYTTERS TO THE SIGNET.

CHAP. 16.

WRyters to the signet, fall not write, nor put in forme, any maner of signatour, or letter, to be passed be his Majestie, containing novellitie, or informallitie, contrair the common stile, or forme, vnder the paine of deprivation. *Iac. 6. parl. 10. c. 13.*

NOTARIS.

CHAP. 17.

ALL notaris quha are ignorant, and nocht worthy to vse the office, suld be deprived. All notaris suld produce their protocoll bukes before the Lords of session, to be keiped be the clerk of register, vnder the paine of deprivation, of infamie, and nullitie of the instrument. *Iac. 6. parl. 1. c. 45.*

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Crimes neither capitall,

HERAVLD, PURSEVANTIS, AND *Maseris.* CHAP. 18.

Parliament.

Heraulds, pursewants, and maseris, being absent fra the Parliament, or being present, and dois not their duerie, fall tyne their zeares tie, for the first fault: and for the secund fault, fall be deprived. *Jac. 6. par. 11. c. 35.*

INIVRIE DONE IN THE KINGS *court.* CHAP. 19.

Gif ane draw ane knife to ane other, in the kings court: the samin knife fall be stroken throw the middis of his hand. And gif he drawes blude, his hand fall be cutted af. *Stat. V Vilh. c. 6.*

2. He quha invadis, or pursewis any of his Majesties subiects within ane mile to the place of his highnes residence, and remaining for the time: or quha fall resort, or repaire within his Majesties palace, or any part of his residence, armed with lakis, Secreitis, or corsleits, vnder their coats, doublets, or vtherwaies, fall be apprehended, and warded for zeire and day: and forder ay and quhile they fine with his Majestie. *Jac. 6. parl. 16. c. 25.*

DEFORCEMENT, AND ARRESTMENT. CHAP. 20.

Stat. Vilh. c. 4.

Gif any officiar of armis, or Scheirif in that part, in execution of their office, is hurt, injured, invaded, perlewed to the effusion of their blude: the doer thereof, or commander, or assister, fall tyne all his moveable gudes. *Jac. 6. parl. 12. c. 150.* Quhilk paine is extended to all breakers of arreistment. *Jac 6. parl. 7. c. 117.*

FORBIDDEN GVDES, THE PAINE *of transporting of the samin, and ane catalogue thereof.*

CHAP. 21.

Forbidden gudes, suld nocht be transported furth of the Realme, vnder the paine of tinsell of their moveable guds command in the contrair. *Jac. 5. parl. 7. c. 123.* And also of the escheiring of the forbidden gudes. *Mar. parl. 6. c. 40. Jac. 6. parl.*

2. Quhilk

2. Quhilk paine is extended to all persons quha transportis, furth of the Realme, or inbrings within the samin, ony forbidden or vncustumate gudes. *Jac. 6. parl. 16. c. An. 1600. lac. 6. parl. 6. c. vlc.*

3. Forbidden gudes may be transported by licence granted to that effect be the Kings maistie, and the comptroller. *Jac. 6. parl. 10. c. 15.*

4. In case forbidden gudes be transported furth of this Realme, by licence granted as said is, the samin gudes, shall pay custume specially set down by *lac. 6. parl. 15. c. 254.*

5. Forbidden gudes are these as followis. Armour and hors. *stat. 1. Rob. 1. c. 34. lac. 1. parl. 2. c. 31. Jac. 6. parl. 1. c. 22.*

6. Money specially for the quhilk lawfull custume is nocht payed, gold, siluer, and jowellis cunzeit, or vncunzeit, *lac. 1. parl. 1. c. 13. c. 14. c. 15. parl. 3. c. 49. Jac. 6. parl. 6. c. 29. lac. 4. parl. 4. c. 41. parl. 68. Jac. 5. par. 7. c. 108. Mar. parl. 9. c. 69* Likewaies bullion is forbidden to be carried away. *lac. 2. parl. 8. c. 34.*

7. Burne coalis. *Mar. par. 9. c. 84. Jac. 6. par. 6. c. 60. par. 15. c. 253.*

8. Woll. *Jac. 6. parl. 7. c. 113. parl. 10. c. 15. parl. 15. c. 250.*

9. Victual. *Mar. parl. 6. c. 40. lac. 6. parl. 11. c. 55.*

10. Caltskins, Hudderon, and kidskins. *lac. 6 parl. 12. c. 155. Schorling skins. Jac. 6. parl. 13. c. 178.*

11. Taulch or tallon, victual and flesh. *Mar. parl. 6. c. 40. Jac. 6. parl. 5. c. 67.*

12. Linning claith,

13. Linget seed,

14. Made candell, or tallon

15. Eating butter.

16. Cheesc,

17. Barked hydis,

18. Made schone,

Iac. 6. parl. 4. c. 59.

19. It is not lesum to pack, peill, salt, barrell, or to transport furth of the Realme, ony herring in smal, or in great quantitie, at any time before Michaelmes, vnder the paine of confiscation of the samin herring, barrells, shipps, and weschels; and of the rest of the moveable gudes, pertaining to the contraveners. *lac. 6. parl. 16. c. Anno 1600. quheit fish are forbidden gudes. lac. 5. par. 7 c 95.* Na man sal transport furth of this Realme, or inbring within the samin ony forbidden, or vncustumed gudes, vnder

Crimes neither capitall,
the paine of tinsell of all their moveable gudes. *Jac. 6. parl. 16.*
c. 15. 23.

MERCHANTS.

CHAP. 22.

NA persons dwelland outwith burrowes, vse ony merchandice, nor taip, or sell wine, waxe, silkis, spicerie, wadd, nor sic like stuffe: nor na stapill gudes, nor zet pack, nor peill in Leith, nor in na other place without burrowes, vnder the paine of escheiting of the saidis gudes. *Jac. 4. parl. 6. c. 84.*

2. He quha is ane craftisman, fall either forebeire his merchandice, or els renunce his craft, vnder the paine of confiscation of his merchandice. *Iac. 3. parl. 14. c. 107.*

3. All merchantis fall make faith to the custumers, that they haue na forbidden gudes, nor na vther gudes, bot they quhilkis are in cocquet, vnder paine of confiscation of their gudes. *Iac. 6. parl. 15. c. 257.*

4. Stranger merchants suld come to the frie burrowis in the west seas, and there make their merchandices, with frie burrowes, and that nane fraucht ships to defraud the Kings custumes, vnder the paine of tinsell of the ship, and gudes. *Jac. 4. parl. 1. c. 3. to-gidder with the rest of their moveable gudes. Mar. parl. 5. c. 59. Jac. 6. parl. 7. c. 120.*

Lisster. 5. Na lister suld be ane drapier, nor buy claith to sell it againe, vnder the paine of escheit. *Jac. 2. parl. 14. c. 67.*

6. Na man fall huse woll, hide, nor skins in *Lieth*, nor in o-ther places, bot within frie burrowis, vnder the paine of escheit. *Jac. 4. parl. 6. c. 88.*

WYNE, SALT, AND TYMMER.

CHAP. 23.

GIf ony forestallis, or buyes, wyne, salt, or timmer, before the price be set vpon them, the samin may be escheited. *Jac. 5. parl. 7. c. 100.*

2. Gif ony man sellis wyne of ane greater price, then is prescribed be the act of Parliament, or buyes wines of ane heicher price; the wyne fall be confiscate, and all his moveable gudes. *Mar. parl. 5. c. 11.*

3. Na wyne suld be mixed with auld wyne, or water, vnder the paine of escheiting of all wyne pertaining to the awners of sick ane tavern, & tinsell of his friedome: and na person fall hurd
or

or conceale any wines in their houses, or privie places: bot fall sell the samine to all our Sovereigne Lords liegis, vnder the paines foresaid. *Mar. parl. 5. c. 11. Iac. 6. parl. 7. c. 126.*

VICTVALL AND AVLD STAKIS.

CHAP. 24.

Victuall suld not be bocht, and keiped to ane derth, vnder the paine of vsurie, and confiscation of the victuall. *Jac. 2. parl. 6. c. 23. c. 24.*

2. Victuall suld not be girmelled, bot suld be brocht to the market. *Jac. 2. parl. 9. c. 38. c. 39.*

3. Na man suld hald auld stackis in his zeardis, langer then zule, vnder the paine of escheiting thereof. *Iac. 2. parl. 6. c. 24. vide forbidden gudes. sup. b. r. c. 21. nu. 9. 11.*

CVSTVMES.

CHAP. 25.

The transporting of vncustomed gudes furth of the Realme, or importing of the samin, is confiscation of all moveable gudes. *Iac. 6. parl. 16. c. 23. c. 15.*

2. They quha hes out of the Realme merchandice, not pay- and the custume, either gold or silver, they fall be banished, and nevertheles vther paines made against them, standing in force and their effect. *Iac. 1. parl. 7. c. 100.*

3. Custumers, and serchers not doing their dueties in their offices, may be deprived, and their gudes confiscate. *Jac. 6. parl. 13. c. 168. parl. 11. c. 89.*

Sercheris.

CONSERVATOUR.

CHAP. 26.

The conservatour suld confiscate the hail gudes and geir, being in ane ship, not havand ane lawfull cocquet. *Jac. 6. parl. 15. c. 256.*

2. And also he suld confiscate all gudes being in the ship, and not contened in the cocquet. *Iac. 6. parl. 15. c. 255.*

3. The conservatour suld receive the aith of all merchants passand fra, and to the law cuntries, that they haue na vnlawfull gudes, &c. And gif the merchants cumming from Scotland, lose any gudes before the giving of the aith, the samin fall be confiscate: and likewaies gif any man refuse to giue his aith, the conservatour fall escheit his gudes. *Iac. 6. parl. 15. c. 257.*

4. The conservatour suld send haime, the names of them, quha failes contrair the acts of Parliaments, vnder the paine of

Crimes neither capital,

tinsell of his office. *Jac. 5. parl. 4. c. 23.*

5. All Scottis merchants cumming furth of the law cuntries to this realme, fall giue vp to the conservatour, the speciall quantitie of his gudes, and the qualitie of the samin, before the inbarking of the samin gudes, vnder the paine of confiscation thereof. *Jac. 6. parl. 15. c. 260.*

CRAFTSMEN.

CHAP. 27.

CRaftsmen quha beginnes ane wark, and delaies to end the samin, fall make na impediment to onie vther of the samin craft, to end the samin wark, vnder paine of tinsell of their freedom, and breaking of the actes of Parliament. *Jac. 5. parl. 7. c. 111. Jac. 1. parl. 5. c. 80. Jac. 4. parl. 4. c. 42. c. 43. Jac. 6. parl. 19. c. 4.*

MALTMAKERS.

CHAP. 28.

MAltmakers fall take twa shillings mair for the bole of malt, then the bole of beire is sauld for and na mair, vnder the paine of oppression, and escheiting of the malt. *Jac. 5. parl. 4. c. 28.*

FORESTALLERS.

CHAP. 29.

FOrestallers, quha buyes victuall, fish, flesh, or vther stuffe, before the samin is presented to the market: or zet into the market, before the time of day statut, and ordained thereto, fall be put in ward, and all sick gudes escheited. *Jac. 5. parl. 4. c. 20.* And for the thrid fault, vnder the paine of all the gudes pertaining to the forestaller, to be confiscat. *Jac. 6. parl. 12. c. 148.*

PRICES OF ALL STVFFES.

CHAP. 30.

ANe price, gudnes, and fynnes suld be set vpon bread, aill, and all vther necessar things, that are dailie bocht, wrocht, & vsed be the liegis. And quha takis greater prices for his stuffe, fall be punished be the vnlaw of the court quhairto he is subiect, for the first time: and escheit of the stuffe quhilk is sauld, for the secund time: and the thrid time, be escheit foresaid, and suspending of the crafrismen and warkmen, fra their craft. *Jac. 4. parl. 3. c. 56.*

FLESH,

FLESH, AND FISH.

CHAP. 31.

ALL beif, mutton, veale, and like bestiall presented to frie markets, shall haue the hyde, skin, and birn, vnder the paine of confiscation thereof. *Mar. parl. 9. c. 85.*

2. Gifskippers of ships, maisters or mariners, caries ony mair flesh furth of the Realme, nor may serue and susteine them for their voyage, the superplus of the flesh, may be confiscate. *Jac. 6. parl. 5. c. 67.* Nor na vther victuall, nor talloun, except sa maikle as shall be necessar as said is, vnder the paine foresaid: and also confiscation of the rest of their moveable gudes. *Mar. parl. 6. c. 40.*

3. It is not lesum to pack, or peill fish, bot fra eleven houres, to twa after nune. And na maner of person in this Realme, merchant, nor vther, send, or haue quhit fish, furth of the Realme: bot it shall be lesum to strangers to buy them: vnder the paine of confiscation of the said fish. *Jac. 5. parl. 7. c. 98.*

4. All fishers, and vther persons quhatsumever, that happens to slay fish, sick as herring, or quheitfish, shall bring them to frie ports within this Realme, vnder the paine of confiscation of the fish, and all their moveable gudes. *Jac. 6. parl. 4. c. 60. parl. 6. c. 86. p. 10. c. 14. p. 5. c. 141.* All flesh barelled, shall be marked with the townes mark, vnder the paine of escheit of moveable gudes. *Iac. 5. parl. 7. c. 109.*

LENTRON.

CHAP. 32.

IN lentrone na man shall eat flesh, without licence, vnder the paine of warding, and confiscation of all his moveable gudes. *Mar. parl. 6. c. 36.*

2. Nor vpon wednisday, friday, or saterday. *Iac. 6. parl. 9. c. 1. parl. 11. c. 58.* quhilk paine is altered, and ane pecuniall paine ordained. *Iac. 6. parl. 14. c. 221.*

WILD, AND TAME MEATE.

CHAP. 33.

ANe price is particularlie set downe vpon wild fowles, and tame fowles, and meat: and the buyer, or the sellar contraveining, are punished by escheit of all their gudes. *Mar. parl. 5. c. 12.*

2. It is lesum to all Scherifs, stewards, baillies, and Barons, within

Crimes nether capitall,

Fowlers.

within his awne boundis, to slay all lying doggis, quhilk fowlers
vſis, and to take and apprehend fowlers them ſelues, and put
them in the ſtocks. *Iac. 6. parl. 15. c. 266.*

HAWKING AND HVNTING.

CHAP. 34.

NA man ſall ride, or gang vpon his neighbours cornis,
in hawking or hunting, vntill they be ſhorne: nor vpon
quheat, and that na man take pertriks vntill Michaelmes: and
that na man range vther mens woodis, parkis, hanyngis, vnder
the paine for the thrid fault, of eſcheiting of their moveable
gudes. *Mar. parl. 6 c. 51. vid. tit. 3. c. 48. ſupra.*

OF ANE SMYTH SHOING

horſe.

CHAP. 35.

ANe ſmith, quha ſhoes ane other mans horſe in the quick,
ſal pay the horſe coſtes, quhile he be haill: and finde the man
ane vther horſe to ride vpon: and gif the horſe never heales, or
convaleſcis, the ſmith ſall pay the price of the horſe, to the aw-
ner. *Iac. 3. parl. 11. c. 78.*

AN ENT HORSE, AND VOTHER

beaſts eſcheited.

CHAP. 36.

GIf ane vndantoned, or headſtrong horſe, carries ane man
ryding vpon him, over ane heuch, or in ane water: and the
man happin to be drowned, or to deceiſe: the horſe ſall perteine
to the King, as eſcheit. *quon. attach. c. 48. 10.*

2. Horſe ſuld not be haldin at the hard meate, after the firſt
day of Iune zearlie: vnder the paine of eſcheiting of the ſaid
horſe. *Iac. 6. parl. 11. c. 58.*

3. All beaſts that ſlayes any man, ſuld be eſcheit. *quon. attach.
c. 48. 12.*

4. Ane waſe beaſt, after zeare and day, is eſcheit to the King.
quon. attach. c. 48. 14.

5. Ane horſe cariand griene wood, furth of the Kings forreſt,
or of ony vther Lord, may be eſcheited. *quon. attach. c. 48. 7.*

6. Gif ane man is apprehended paſſand with cornes to ane
vther mans milne, the Lord of the milne, to the quhilk he ſuld
haue paſſed, ſall eſcheit the horſe: and the miller ſall haue the
cornes,

cornes, and the sack. *stat. V Vilh. c. 9. 7.*

6. Swyne, hens, geese, gaites, doing skaith to ony man, may be eschieted, and eaten be him, to quhom the skaith is done. *Leg. burg. c. 126.*

7. All persons clemand the office of keiping of the Kings forests and parks, fall suffer na maner of gudes, horse, meiris, nolt, sheip, or vther cattell, to be pastured within the Kings forests, vnder the paine of tinsell of their offices, and escheiting of their gudes moveable. *Iac. 5. parl. 4. c. 11.* And also of the gudes found pasture and in the saidis parkis and forests, without licence of the controller. *Iac. 6. parl. 12. c. 128. parl. 14. c. 210.* *Kings parkis and forestis.*

WYLD FOWLS AND BEASTS

CHAP. 37.

NA person fall shut at wild beastis, or fowlis, vnder the paine of forfaltour, and tinsell of all his moveable gudes. *Iac. 6. parl. 1. c. 16.* Speciallic within the Kings parkis or wodis, or without the samin in time of snaw, or at ony time in winter night: vnder the paine foresaid, and punishment of the trespassours person, at the Kings will, and of the paine of dittay. *Iac. 6. parl. 14. c. 210.*

HVRDIS, OR TRESVRE.

CHAP. 38.

HVrdis, or tresuris fund be any man, vnder the earth, quhair of the awner is not knawin, perteins as escheit to the King. *quon. attach. c. 48. 5. mod. ten. cur. c. 60.* And therefore the conceiler thereof is punished. *lib. 4. c. 4.*

CLAITHING, AND WOMEN MVS-

saied.

CHAP. 39.

Contraveneris of the act of Parliament, made anent sumptuous claithing, are punished be escheit of the habite.

2. Women suld not come to the kirk, nor zet to the market, with her face covered, or musaled, vnder the paine of escheit of the kurchie. *Iac. 2. parl. 14. c. 71.*

ANENT THEFT.

CHAP. 40.

NA man suld be hanged, nor put to death for the thift of ane mutton, or veale, or of sa meikle meat, as he may beare in

Crimes nether capitall,

in ane seck, vpon his back: bot he sall be scurged. *lib. 4. c. 16.*

2. All persons quha sels gudes of theuis, and disobedient persons, or of Clannes, quha dare nocht resort to markets, sall be punished be confiscation of all thair gudes moueabill, and banishment. *Iac. 6. parl. 11. c. 109.*

FERRIERIS.

CHAP. 41.

Ferrieris at *Leith, Kingorn, Quenis ferrie, Partincrag*, and the *East ferrie* sall cause make briggis, for easment of hors, vnder the paine of escheit of the boat. *Iac. 3. parl. 3. c. 20.*

PRINTERS.

CHAP. 42.

Printers suld Imprint na buiks, vnto the samin be viseit, and that they haue the Kings licence, vnder the paine of banishment, and confiscation of all their gudes. *Mar. parl. 7. c. 27.*

BEARING OF ARMIS.

CHAP. 43.

Nane of the common sort of people, sall beare, or vse ony armis vpon thair insicht, or houthald geir, vnder the paine of escheting of their gudes and geir, and ane hundreth pundes to the vse of the Lyon, and his brethir herauldis. *Iac. 6. parl. 12. c. 125.*

ANENT FIRE AND BVRNING.

CHAP. 24.

Willfull fire raised of set purpose is treason, as said is. Bot gif it be nocht of set purpose, done be ane servant haueand gudes; he sall satisfie the partie, and be banished for three zeires. And gif he be nocht responfall, he sall be dung at the market cros, and banished for seuen zeires. *vid. Jac. 1. parl. 4. c. 75.*

2. Gif ane man lends his kill to ane vther, and it is brunt in the time of his lending, he to quhom it was lent, sall restore and repaire it againe. *leg. burg. c. 54.*

SLAUGHTER OF ANE HOVSE

dogge. CHAP. 45.

Gif ony man vniustly slaies ane vther mans house dogge, or hund; he sall keip, and walk his myddin, be the space of ane zeir, and ane day, and restore all the skaith, quhilk sall happin in the mean time. *stat. David. 2. c. 15.*

LAW-

nor pecuniall.

Tit. 4.

156

LAWBORROWIS.

CHAP. 46.

GIf ane man hes fund lawborrowis to ane vther, & ane friend of him quha hes fund the lawborrowis, hurtis, or defoulis him to quhom the samin is fund: he sall remaine in warde, vntill he allyth the partie, the King, and the Lord haue and entres. *Iac. 1. parl. 6. c. 97.*

BVRROWES.

CHAP. 47.

IT is nocht lesum to any burgh, to sell their friedome, and privilegis, vnder the paine of tinsell of their friedome. *Iac. 6. parl. 11. c. 112.*

DOVBLE ALIENATIONS.

CHAP. 48.

ALL they quha makis double alienations, resignations, or attedations, and all our Lordis receaue the samin, wittinglie incurris the paine of infamie, & punishment of their persons, at the Kingis will. *Iac. 5. parl. 7. c. 105. Iac. 6. parl. 12. c. 140.*

BANDS.

CHAP. 49.

MAkers, or receivers of bands of Manrent, or maintenance, may be put in ward, there to remaine induring the Kings wil: because na lieges, nor bands suld be made without the Kings consent. *Iac. 6. parl. 10. c. 12.*

REBELLS WITHIN BVRGH.

CHAP. 50.

GIf any man is disobedient, or rebels within burgh, his house sall be castin downe: & he sall be banished furth of the burgh. *Leg. burgh. c. 122.*

PISTOLETS, AND VOTHER INGINES

of fire warke.

CHAP. 51.

NA maner of persons sall shute with Culverings, daggs, pistolets, or ony vther gunnes, or ingines of fire-warke in ony part of this Realme: nor beare, weare, nor vse them, vpon their persons, or in their cumpanie with them, privatly, or openly, out-with houses, vnder the paine of cutting of their right hand, *Iac. 6. parl. 1. c. 18.* and also vnder the paine of ten pundes, and escheit of the gunne born. *Iac. 6. parl. 6. c. 87.* and likewaies vnder the paine

Crimes nether capitall,

paine of confiscation of their gudes moveable: swa that the ane paine, fall nocht stop, nor stay the vther. *Jac. 6. parl. 15. c. 248.*

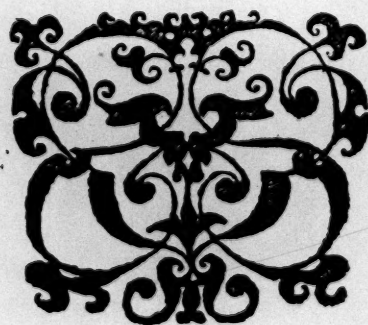
2. The bearers or wearers of hagbutts, pistolets, and vther ingines of fire wark, (quahes nether committed slauchter, nor mutilation, or vther violence therewith) bot onely born, and worn them vpon their persons, or in their cumpanies, contrair his highnes lawes, and acts of Parliament, may be pursewed, either criminallie before the justice, or his deputis: or before the Lords of secret counsell, be lawfull probation be witnes, or aith of partie, at the option of his Highnes Thesaurer, or Advocate. Providing that sick as fall be pursewed, and fund guiltie, before the secret counsell, fall nocht incure the corporall punishment, prescribed be the former acts of Parliament, be amputation of the richt hand, bot only to be punished be warding of their persons, escheit of their moveable gudes, or payment of sick ane pecuni- all penaltie, and summe of monie as his Highnes, and Lords of secret counsell fall decerne. But preiudice alwaies of the acts of Parliament, and execution thereof, agains sick as fall be criminal- lie persewed, convict, and fund guiltie, be ane condigne assise, be- fore the Justitiar generall, and his deputis, in case his Majestie like rather, that they be persewed criminallie, before the Justitiar, nor the secret counsell. *Jac. 6. parl. 16. c. 6.*

GENERALL ESCHAIT PERTEINING

to the King.

CHAP. 52.

ALL lands, places, and vther things quhatsumever, quhilkis are challenged be na man, and quhair of the Lord, or awner is nocht knawin, perteins as escheit to the King. *quon. attach. c. 48.*
4. Sick as tresuris or hurdis hid vnder the earth, or in vther pla- ces. *ibidem nu. 5. as is before said. c. 38.*



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CRIMES QVHERE
OF THE PAINE IS AR-
BITRARE AT THE KINGS
VVILL AND MERCEIE.

TIT. 5.

PARLIAMENT. CHAP. I.



A MAN OF THE ESTATES
shuld querrell or make provocation to other
for the prioritie of places, or votes of Parlia-
ment, vnder the paine to be esteemed as di-
sturbes of the common peace, and quyetnes,
and to be punished at his Highnes discretion,
and Lords of the Articles. *Iac. 6. parl. 11. c. 41.*

JVDGES AND OFFICIARS.

CHAP. 2.

Negligent Judges and officers may be punished by the King. *Negligent Iudges.*
Iac. 2. parl. 6. c. 13. Iac. 3. parl. 5. c. 26.

2. Officers culpabill in their offices and execution thereof,
shall be imprisoned and punished in their persons and gudes at the
kings will. *Iac. 5. parl. 6. c. 75. Iac. 3. parl. 14. c. 105.* and the decreit
reduced. *ibid.* *Negligent or cul-
pabill.*

3. The Kings officers, sic as Schirefs, Justitiars, being culpa-
bill, or negligent in execution of their office, and adminitration
of justice, may be called before the King and Counsell, and pu-
nished according to their deservings and trespasses. *stat. Rob. 2.*
c. 13. stat. Rob. 3. c. 41.

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4. Con-

Crimes Arbitrare. Tit. 5.

4. Constabill of castelles, Schirefes, Baillies of burrowes in time of Faires, Parliament, and generall counsellies, shall not take extortions of the Kings lieges, vnder paine of punishment of their persons at the Kings will. *Jac. 3. parl. 5. c. 33.*

MURMURING AGAINST JUDGES.

CHAP. 3.

THe King shall giue no credence to any man, that murmures against the Lords of the Session, or any of them; but they shall be called before him, and being found culpabill, shall be punished, after the qualitie of the fault and demerite. *Jac. 5. parl. 5. c. 68.*

2. Gif ane partie compleins vpon ane Judge ordinar wrangouslie, he shall pay the expenses to the Judge, and his person shall be punished at the Kings will. *Jac. 3. parl. 5. c. 26. parl. 14. c. 105. Jac. 5. parl. 7. c. 104.*

EXECUTION OF THE SUMMONS.

CHAP. 4.

If the executour of the summons, is over slow or negligent in his office, or favourabill to either of the parties; he shall be in the Kings mercie. *lib. 1. c. 6. 16.*

COURTS AND PASSINGERS.

CHAP. 5.

NA man rydand nor gangand to, or in the Court, shall haue mae persons with him, nor he may sustein or suffice him for his estate. Gif they doe in the contrair, they shall be punished at the Kings will. *Jac. 1. parl. 1. c. 5.*

2. Na great persons shall ryde to Courts, or to gatherings with mae persons nor they may sustene in household daily. *Jac. 5. parl. 4. c. 27. stat. VVilb. c. 38.*

PERSEVER. CHAP. 6.

If the persewer quha calles his overlord for his warrant, proves not sufficientlie against him, he shall remaine in the kings mercie for his vnjust perture. *lib. 1. c. 26. 5.*

2. Quhen any man complaines vpon ane other, in any querrell of wrang & vnlaw, and finds pledges to persew, and will not persew; or gif he hes not pledges that he will persew, he is in the Kings

Kings mercie. *stat. Alex. c. 10.*

PERSEVER IN SINGVLAR BATTEL.

CHAP. 7.

HE quha appeales and persewes ane other to singular battell, and is vinquest, and overcome, is in the Kings mercie. *lib. 4. c. 1. 16.*

2. In the time of singular combat, he quha puttes to his hand to helpe any of the parties, fall be in the kings mercie of bodie and life. *quon. attach. c. 74.*

PERSEVER IN NOVELLE DISSAISING.

CHAP. 8.

HE quha persewes in *Novelle dissaisine* (ejection or spolzie) and proves not his clame, fall not onely pay ten pounds, but also fall be in the kings mercie. *stat. Alex. c. 8.*

2. He quha is convict of *Novelle dissaisine*, is in the kings mercie. *lib. 3. c. 36. quon. attach. c. 53. 9. c. 101. stat. Alex. c. 8.*

REPLEGIATION OF THE DEFENDER.

CHAP. 9.

HE quha repledges to his awin Court any man quhom he should not repledge, or takes profite or buddes to repledge ane man from ane other Court to his awin Court, fall be in the kings mercie. *stat. Alex. c. 4.*

WARRANT.

CHAP. 10.

Gif ane man called for warrant, refuses to compeir in Court, his maister fall compell him to compeir; quhilk gif the maister refuses to doe, and is not responfall in his gudes and geir; he fall be in the kings will of his life. *lib. 1. c. 17.*

2. Gif ane overlord called be his vassall, as warrant, compeires not in judgement, and refuses to warrant, and the vassall failzie in probation against him, he fall remaine in the Kings mercie. *lib. 1. c. 26. 5.*

DECREIT AND SENTENCE.

CHAP. 11.

Gif a sentence or dome of Court is given be discrepance of the Judges, the Lord of the Court fall tine his Court for ever;

Dd 2

and

Crimes Arbitrare. Tit. 5.

and he and all the members of the Court salbe in the Kings mercie. *lib. 3. c. 24. 8.*

DECREIT ARBITRALL. CHAP. 12.

QWhen ane decreit Arbitrall is given, and pronounced betwix twa parties, and either of them contravene the samine, he sall remaine in the Kings mercie. *lib. 1. c. 27. 4.*

DEFORCEMENT. CHAP. 13.

HE quha complains that he is deforced in poynding for debt, and proves not the samine sufficientlie, is in the kings mercy. *stat. 2. Rob. 1. c. 21. 5.*

REGALITIE. CHAP. 14.

THey quha abuses thair Regalitie, in prejudice of the Kings lawes, may be punished be the king, as effairs. *1a. 2. par. 14. c. 73*

KINGS PROTECTION.

CHAP. 15.

Breakers of the Kings protection, sall satisfie the partie, and sall be in the kings mercie. *quon. attach. c. 54. read. Jac. 1. par. 11. c. 134*

KINGS FORESTS.

CHAP. 16.

HE quha sees ane other man take and apprehend ane beast, within the Kings Forest, and carie it away, and raises not the cry, is in the Kings mercie. *leg. Forest. c. 15.*

LEASING-MAKERS. CHAP. 17.

HE quha raises or invents narrations, or rumors, be the quhilk occasion of discord may arise betwix the King and his peopill, sall be imprisoned, vntill the King declare his will anent him. *Stat. 1. Rob. 1. c. 21.*

COMMON PEACE SOVLD BE KEIPED.

CHAP. 18.

ALL men sould keip peace with others, and nane sould make weir against others, vnder all paine that may follow. *Jac. 1. parl. 1. c. 2. stat. Rob. 1. c. 20.*

2. Quha-

2. Quhaſaever takes ane revenge of any injurie at his awn hand, without conſideration of ane ludge; or troubles or ſkaiths his neighbour, ſall be puniſhed after the quantitie of the crime. *Trivierever 3.*
ſac. 2. Rob. .1c. 15.

KIRK-MEN. CHAP. 19.

NA man ſould moleſt or troubill kirk-men, in their perſons or gudes, vnder all paine he may inryn againſt God, and the king. *Jac. 2. parl. 3. c. 4. ſtat. Rob. 3. c. 5.*

ERRONIOUS BUKES.

CHAP. 20.

BRingers haime of erronious Bukes contrair the Religion, ſuld be warded & puniſhed at the kings wil. *Jac. 6. par. 11. c. 25.*

PENSIONS OF BENEFICES CHAP. 21.

NA Clerk ſall purches any pension out of any benefice ſecular, or religious, vnder all paine that he may tine againſt his Ma-
 jeſtie. *Jac. 1. parl. 1. c. 14.*

PURPRESTURE. CHAP. 22.

HE quha commits purpreſture within the kings burgh, times that quhilk he wrangouſlie bigges, or purpriſes. And mair-
 over, is in the kings mercie. *lib. 2 c. 74. Read Jac. 6. parl. 16. c. 5.*

HOSTILLARS. CHAP. 23.

ALL magiſtrats within burrowes, and Lords and Barrons a-
 landward, ſall cauſe hoſtillares to be in all their burghs and
 bounds, and to haue horſe meate and mans meate, vnder paine
 to be called and puniſhed at the kings wil. *Jac. 5. parl. 4. c. 17.*

FTRF. CHAP. 24.

GIf ane ſtranger, or traveller burnes ane other mans houſe rak-
 leſſie; he ſall be arreſted: and gif he be reſponſall, he ſall a-
 mend the ſkaith; otherwaies, he ſall abide in warde at the kings
 will. *Jac. 1. parl. 4. c. 75.*

STRANGERS PASSINGERS.

CHAP. 25.

THe Juſtitiar may puniſh as he pleaſe, all them quha within
 their houſes, luges or harberies ſtrangers, attour a night, ex-

Crimes Arbitrære. Tit. 5.

cept they haue ane borgh for them. *quon. attach. c. 63.*

HORSE.

CHAP. 26.

NA man shall send his horse to be in time of winter, with religious men, Persons, Vicars, Husband men; or in time of sommer, to consume victuall, or medowes of husband men, or of others, vnder the pain according to the quantitie of the crime, and qualitie of the person. *stat. David. 2. c. 43.*

PROVEST OF BURROVS. CHAP. 27.

If the Provest within burrowes, does not punish Baksters, and Browsters, his bodie and gudes shall be in the kings will. *leg. burg. c. 21.*

BORGH AND CAUTION. CHAP. 28.

Whatsaever is borgh for ane other, in any action concerning the kings mercie (*as anent the breaking of the Kings peace*) gif he can not produce and exhibit him, for quhom he is pledge; he shall fall in the kings mercie. *lib. 3. c. 1. 19.*

MISINTERPRETATION OF THE KINGS
Lawes. CHAP. 29.

Whatsaever interprets the kings lawes and statutes, otherwise then they beare, and to the intent and effect they were made for, and as the maker of them vnderstode; shall be punished at the kings will. *lac. 1. parl. 7. c. 107.*

CRAFTISMEN.

CHAP. 30.

Ne Craftisman quha wrangouslie refuses to fulfill the warke quhilk he hes taken in hand, or refuses to take on hand, that warke quhilk ane other man of the samine craft refuses to fulfill, shall be punished at the kings will. *lac. 1. parl. 5. c. 86. vid. Jac. 4. parl. 4. c. 43.*

MALE-





MALEFACTOVRS.

TIT. 6.



A MALEFACTOVR **SOULD** be condemned, vntill he be first called and accuted. *Stat. Rob. 3.c. 41.*

2. Malefactours quha troubles the Countrie, and the lieges, be oppressions, depredations, fire, slauchter, sould be tryed be inquisition of the Schiref: And gif they be apprehended, fall finde sovertie to com-

peir before the Justitiar in his next justice air, vnder the paine of twentie pounds. And gif they failzie to compeir, they fall be denounced rebelles, and put to the horne; and their soverties fall pay the paine to the king, and also fall satisfie the partie damnified. And gif they can not finde sovertie, they fall suffer ane assise, and fall be condemned to the death. *Stat. Rob. 3.c. 44.*

3. Gif ane malefactour accused of ane crime is fugitiue fra ane Schiref to ane other; the Schiref fra quhom he is fugitiue, fall direct his letters to the other Schiref, to summone the malefactour lawfullie, be his Sergent, before witnes to compeir at ane certaine day before the Schiref, fra quhom he is fugitiue, to vnderly ane assise. Quhilk gif he refuse to do, and happins to be apprehended, he fall be punished as convict of the crime. And gif he remaines fugitiue, he fall be denounced rebell and put to the horne. *Stat. Rob. 2.c. 15. Stat. Rob. 3.c. 45.*

4. Inquisition fall be made alswell within Regalitie as Ryalitie anent malefactours, and their names fall be put in writ, and publick proclamation salbe made, that they compeir within fourtie dayes, to vnderly the law; the quhilk fourtie dayes being by-gane, and they not compeirand, they fall be denounced rebelles, and put to the horne be the Schiref. *Stat. Rob. 2.c. 16.*

5. All

Crimes Arbitrare.

5. All Earles, Lords, Barons, and other frichalders, within Ryaltie & Regalitie, shoulde concurre and assist the Schiref, and officers the kings Officers, after their power to take and punish malefactours, being their awin domestick men, and others. And gif any is found culpabill, and ryfes not, the samine being proven againt him be witnes, or be ane allife before the Justitiar, he shall be punished be ane paine of ten pounds to the kings vse. *stat. Rob. 3. c. 45. vid. Regalitie.*

6. All Judges within this Realme, shall dee diligence to search and seik all our Soveraine Lords rebulles, and being at the horne, and bring them to our Soveraine Lords justice, to be justified for their demerits, vnder the paine of rintell of their office for thrie zeares, gif they be heretabill. And gif their offices are temporall, they shall fine them for ever; and to be accused before the Justitiar as it shall please the King. *Jac. 5. parl. 7. c. 97.*

7 All Lands lords, Baillies, and chitranes of all notabill limmereis and thefes, sal present the saids trespassours before the king or his Justitiar, to vnderly the law, vnder the paine and in case of their contempt, they themselues shall be put to ane allife, and justice shall be ministrat vpon them conforme to the lawes, and generall band. *Jac. 6. parl. 11. c. 103.*

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RESETTERS OF MALEFACTOVRS.

TIT. 7.



N A EARLE, BARON, NOR OTHER man shall reset any malefactours within his dominion, vnder the paine of tynsell of his Court for ever. *leg. Mal. c. 10. stat. V Vilb. c. 7. 6.*

2. Nane of our Sovereine Lords subjects shall reset or mentaine theifes, menslayers, reavers, murtherers, nor other malefactours, bot shall bring them to the justice, and assist the iustitiar of the land, vnder the paine of tynsell of their Court perpetuallie. *stat. V Vilb. c. 8.*

3. Na man sould wilfullie reset, menteine, or doe favour to open and manifest rebellers against the kings Majestie, vnder the paine of forefaultour. *Jac. 1. parl. 2. c. 37.*

4. Na man presume to reset, supplie, or to intercommon with any declared traitours, or rebelles repair and within any parte of this Realme, or to giue them meat, drink, house, harberie, or any releif or comfort, vnder the paine for the quhilk they are forefalt, and put to the horne. *Jac. 6. parl. 12. 144.*

5 Na maner of man within this realme, wilfullie, and wittinglie reset, supplie, menteine, defend, or do favours to any of the Kings rebelles, and being at the horne, within their houses, lands, bounds, or Bailleries, vnder the paine of death, and confiscation of all their moveabill gudes. *Iac. 5. parl. 7. c. 97.*

6 Resetters of Papists, and suppliers, and interteiners of them being denounced rebelles, tines their gudes and liferent. *Iac. 6. parl. 14. c. 194. vid. tit. 2. c. 15. nu 13.*

7 Na Lord spirituall nor temporall, nor nane of our Sovereine Lords lieges, sal menteine, fortifie, supplie, defend, nor stand
at

Resetters of malefactours. Tit. 7.

at the Bar with manifest traitours, nor common men-slayers, theifes, reavers, nor other trelpallours, nor persons pertaining to them, vnder the paines contained in *Regiam Majestatem*, and Acts of Parliament. *Iac. 3. parl. 14. c. 98.*

8. Resetters, mentainers, and favouers of them quha slayes or procures any man to be slane for loue of his wife and lands, are perjure, mensworne, and may be punished to the death, as said is. *leg. Malc. 2. c. 14.*

9. Resetters of men-slayers, tynes their liferent and moveable gudes. *stat. Rob. 2. c. 10.*

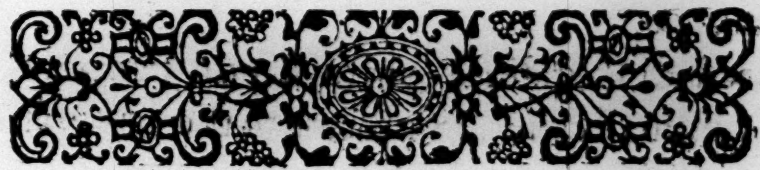
10. Resetter of ane theif is punished as ane theif. *stat. Alex. c. 21. Jac. 6. parl. 1. c. 21.* And he quha resettet ane theif or ane reaver, and being requyred, will not bring him to the justice to deliver him to the compleiner, sall be accused as the principall theif or reaver, and sall also satisfie the partie. *Iac. 5. parl. 1. c. 2.*

11. Resetters of Iesuits, seminarie Priestes, excommunicat and traffigune Papists, are punished be certaine pecuniall paines, conforme to the qualitie of the person quha is resetter. *Jac. 6. parl. 16. c. 18.*

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JVDGES IN CRIMI- NALL CAVSES.

T I T. 8.



ALL JURISDICTION STANDS and consits in the Kings person, be reason of his Royall authoritie, and Crowne, and the samine is competent to na subject. For ane privat mā, alledgeand himself to haue richt to any lands, may not be his awin authoritie, and without order of law, eject or put forth an other man fra his possession of the samin lands. *stat. Rob. 3. c. 15 leg. Burg. c. 101.* Or gif ane injurie or wrang is done to ane man, of great or lesse estate quhat ever he be, he of his awin proper will, without the advyse or consideration of the Kings court, may not take ane mends or revenge of the samine *stat. 2. Rob. 1. c. 15.* Swa all jurisdiction flowes and proceids fra the King haueand supreme jurisdiction; and is given and committed be him, to sic subjects as he pleases, be temporall commillion, or be perpetuall and heretabill gift and infeftment.

2. In criminall causes the king and estates in Parliament, is ordinar and supreme Judge, as said is of before, anent the crime of treason. *tit. 1. c. 3.*

3. The Justitiar generall, either in his justice air, quhilk could be halden twyse in the zeare, or in his particular justice courts, quhilk he may hald as occasion requyres any lawfull day.

4. The Kings Schiref within his awin Schirefdome.

5. The Kings Chalmerlane, within the Kings Burrowes.

6. The Constable within the kings chalmer of peace.

7. Earles, Lords and Barons within their awin Baronies,
and

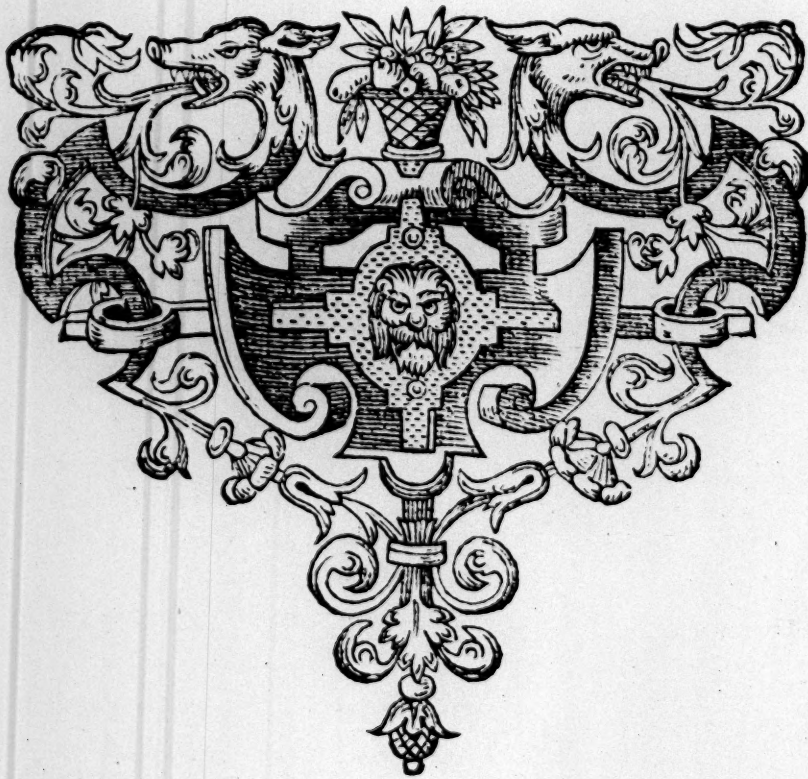
Judges in criminall Causes. Tit. 8.

and territories.

8. Lords of Regalities spirituall and temporall, hes jurisdiction in criminall causes, conforme to the lawes and their infeftments, within the bounds of their Regalities.

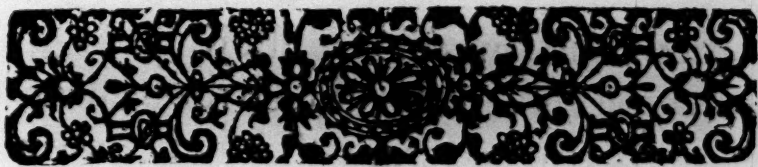
9. Commissioners made be the King and counsell in causes concerning them quha halds their lands of Barons, and in the auld lawes of this Realme, are called *Milites*, and now commonlie are named *Frie-holders*, they may not hald courts of life and limme, bot onely of injuries, and of wrang and vnlaw. *leg. Malc. 2. c. 8. 7.* Quhilk actions touches onely winning and tinsell of moveabill gudes, and dangers not life or lim in any parte. *Mod. ten. cur. c. 75.* Except these frieholders haue the like freedome and libertie, as Barons hes. *quon. attach. c. 43. Mod. ten. cur. c. 43.* For generallie, actions touching life or limme, may not be decided in ane court, not haue and power thereof. *mod. ten. cur. c. 27. 7.*

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THE JUSTICIAR GENERALL AND

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der of ane Iustice Air.

TIT. 9.

AT QVHAT TIME IVSTICE AIRES

suld be haldin.

CHAP. I.



HE justice air suld be haldin twise in the zeir: for it is statute and ordeined, that the justice, and his deputs, suld have twa heid courtis zeirly. *Stat. 1. Rob. 3. c. 30. quon. attach. c. 79.* And the Kings justice, the Lords of the regalities, and also the Kings ballies in his regals, suld hald there justice airs, twise in the zeir.

Jac. 2. parl. 3. c. 5. Vniversallie in all parts.

of this realme, anes on the grasse, and anes on the cornes. *Iac. 2. par. 13. c. 49. Iac. 4. parl. 3. c. 29.* And over all the shires of this realme, in the moneths of April, and October, *Iac. 6. parl. 11. c. 81.* Baith in the inland and also in the Iles, South and North. *Iac. 4. parl. 6. c. 89.* Becaus the Iles and inhabitants theirow, suld be ruled be the lawis of this realme. *Iac. 4. parl. 6. c. 79.*

FOR QVHAT CAVSIS IVSTICE

airs suld be haldin.

CHAP. 2.

I Vstice airs suld be haldin, for increase of justice, and tranquillie of the realme, for stansching of cumbers, slaughters, reifis, thefts,

Ec 1

Iustice Air.

theftis, extortion, and oppression of the Kings liegis; and to the effect iustice may be vniversally, throch the haill Realme ministred, for punition of the said crimes, sick authoritie suld pas with the iustice, throch all the Realme, to the iustice airs, that trespassors, sick as men-slayers, reveris, thiefis, and committers of vthers enormities, in disobeying & lichtleing of the Kings lawis, may be punished without favour. *Jac. 3. parl. 4. c. 29. Iac. 3. parl. 13. c. 90.* And specially the Iustice generall is judge competent to all faltis, trespasses, and crimes. Wherevpon dittay or inditement is takin vp. *lib. 1. c. 1. 9. Jac. 4. parl. 4. c. 45.* As is particularly declaired in the acts of Parliament, and table thereof. In the word dittay.

ANENT TAKIN VP OF DITTAY.

CHAP. 3.

THe Iustice air, or court being proclaimed at the Kings command, to be haldin sick ane day, vpon the premonition of fourtie daies, as he pleisis, in the heid burgh of the shire, the Iustice suld cause dittay to be taken vp be his clerks diligentlie and faithfullie, for the dittay is the principall, and chief substantiall point, of the Iustice air, and the iustice suld follow the order thereof.

2 Dittay may be taken vp, vpon al crimes perteining to the Iustice, and his Iurisdiction, as said is. And as vpon the crime of Lese-maiestie, or treason as the death of the King, sedition within the Realme, betraying of the Kings host or armie, breaking of the Kings protection, willfull fire, roberie, ravishing of women, murther, slauchter, mutilation, theft, forestalling, all kinde of falsset, in doing of Iustice, in monie, alsyse, weichts, measures, writs, and generally, all vther like crimes, quhilk be the law are punished be death, or cutting af of ane member. *lib. 1. c. 1. Leg. Malc. 2. c. 11. 8.*

3 Quhilk hainous, and capitall crimes, may be first criminally persewed before him: and for depredations, ejections, spulzies, the samin being first civillie discusset before the civill Iudge ordinar, thereafter may be criminally persewed before the Iustice, and his deputis, at particular dyers let and appointed therefore, or be way of dittay, in the iustice air. *Iac. 5. parl. 4. c. 33.*

Dittay

Dittay may be takin vp twa maner of wayes, privatlie and publicklye; for the Iustice, and his deputis, may privilie take vp dittay be privie inquisition of malefactours, and their receitours, be the aith of thrie gude honest, and faithfull men; and of the principall man: sic as the Chalmerlane, or officiar, within ilk village, or towne. *Stat. Alex. c. 2.* And mair over, all Lords, and heidmen of all parts of this Realme, suld giue vp dittay, vpon notour trespassours, without exception of any person, to be takin and iustified without remission. *Jac. 3. parl. 3. c. 94.* And suld make new relation thereanent, to the Chancellor, or Justice, quhen they sall be required. *Iac. 3. parl. 14. c. 98.* And gif they be convict be ane assyse, in the contrair, they sall perpetually tyne their court in al time cumming. *Stat. VVilh. c. 7.* Secundlie the Justice suld direct publikelye the brieve of dittay to the Scherif and his deputis, for taking vp of any dittay, quhair of the tenour followis.

OF THE BRIEVE OF DITTAY.

CHAP. 4.

Wilhelmus, &c. *Iustitiarius domini nostri regis, generaliter constitutus, vicecomiti, & ballivis suis, de E. Salutem; quia indictamenta Regia deo duce, 10. die mensis N. proxime futuri, cum continuatione dierum, apud E. infra vicecomitatum vestrum levare intendimus: vobis precipimus, & mandamus, quatenus summoneatis, seu summoneri faciatis legitime, coram testibus legalibus, de qualibet Baronia, duodecem, vel quindecim homines ad hoc opus magis sufficientes; & de qualibet tenendria, seu villa, quatuor, vel sex homines; & de quolibet burgo duodecem, vel sedecem burgenses, ad hoc opus magis sufficientes, secundum quantitatem Locorum, & numerum personarum, in jisdem existentium. vna cum servando, fabro, molendinario, brasiatore, & sectatore, cujusque Baronia, villa, seu tenandria; quod compareant coram clericis nostris, pluribus, aut vno, dictis die, & loco, cum continuatione dierum, ad sursum reddendum indictamenta Regia; & faciendum, ac subeundum, id quod in hac parte, Iuris ordo requirit, & sitis vos vicecomes, & ballivi vestri ibidem, coram clericis nostris, dictis die, & loco, cum continuatione dierum; habentes vobiscum summonitionis vestre testimonium, & hoc Breve: Provideatis etiam pro expensis dictorum Clericorum, quas vobis in primis computis, de exitibus Justitiarie reddendis, faciemus plenius*

Justice Air.

plenius allocari. Et hoc nullatenus omittatis, sub omni poena, que competere poterit in hac parte. Datum sub sigillo officij nostri Iustitiarie.

IVSTICE CLERK, TAKIS VP DITTAY.

CHAP. 5.

THe Justice clerks ane or mae, conveinis the day, and in the place appointed, and their remaines, susteined vpon the Scherifs expensis, (quhilk is allowed to him in his comptes, of the issues and profites of the Justice air) and takis vp dittay; be the relation and deposition of the persons summoned, for the giving vp thereof. Quhilk dittay they suld keip quiet, and suld na wayes reveill the samin to any person, nor translait it, vtherwaies then it was given to them: nor chenge names, ane for ane vther; nor put out any furth of the rollis bot lawfully, and truely suld report, and deliver the samin to the justice, and his deputis. *Iac. 2. parl. 6. c. 28.*

DITTAY IS TAKIN VP BE ANE AS- fise, and aith of gentilmen.

CHAP. 6.

Dittay suld be given vp be vertue of the Kings commission, direct to Earles, Lords, Barons, Knichts, and speciall landed gentelmen; and be foure of the counsell of everie burgh, quha fall make and giue vp dittay, be their awne knowledge, or be ane sworne inquest, or sworne particular men, vpon all persons suspect culpable of crimes and faultis, perteing to the jurisdiction of the justice, and his deputis. *Jac. 6. parl. 11. c. 81.* quhilk suld be likewaies keiped quiet, and reported as said is, to the Justice, and dittay being takin vp vpon any crime, agains any person: na vther Iudge, bot the justice, and his deputis may mell therewith. Like as the warden, on the bordouris, in his warden court, may not introuet with any thing, that pertains to the dittay of the Justice air. *Iac. 2. parl. 11. c. 42.*

ANENT THE PORTEOVS.

CHAP. 7.

THe dittay takin vp in maner foresaid: the Justice clerk, at command of the justice, makis ane catalogue, cōreining the names

names of the persons indyted : And vpon quhom dittay is given vp, quhilk is called ane *Portuous*, or traistis, quhilk is delivered be the Iustice clerk, to the Crouner, to the effect that all the persons quhaes names are conteined in it, may be attached and arreisted be him, to compeir in the iustice air, to answer to sic crimes as fall be imputed vnto them. *Jac. 1. parl. 13. c. 139. Jac. 3. parl. 14. c. 99.*

OF ARREISTMENTS, AND MAKING thereof. CHAP. 8.

THe Crouner in making his arreistments, sould passe to the habitation, and dwelling place of the persons, given to him in *portuous*, and thereafter make proclamation at their parochie kirkes, vpon festuall dayes, and take sovertie of them, sic as he will stand for to the King: And gif the persons swa arreisted be not streinzeable; the Crouner sall arreist their gudes, and put them in sure keiping to the kings vse; quhill the said sovertie be found, or elie take their persons and put them in the kings castell, gif any be within the shyre; and gif there be na castell, he sould deliver them to the Schiref, to be keiped. *Iac. 5. parl. 3. c. 5.*

FUGITIVES ARREISTED.

CHAP. 9.

ANd mairover, because sundrie persones indyted, vses to flie and absent them selues; swa that the Crouner can not apprehend them: In that case, it is sufficient that the Crouner come to the dwelling place of the saids persons, and make them warning, and charge them to compeir in the iustice air next following, to answer to sic accusations of crymes as fall be imput vnto them. And thereafter vpon the next Sabboth day following the said charge, the Crouner sal make open and publick intimation of his wrang, charge, and premonition made to the saids persons be their names in their paroch kirks. Quhilk charges, Premonitions and intimations, sall stand to them for sufficient arreistmentes, the samine being lawfullie proven, as effeires of the Law. *Jac. 5. parl. 4. c. 33.* And mair over, gif he can not attach any man personallie, be reason of his absence, he sould arreist all his gudes moveabill, and vnmoveable, to remain vnder sure pledges, and to be forth cume and to the king, incase he be

Justice Air.

not answerable to the law, before the Justice. *Leg. Malc. 2. c. 3.*

THE TIME OF MAKING OF AR- reistments. CHAP. 10.

THe Crouner sall arreist at all times, aswell before the crie of the aire, as after the samin; all them, quha are given to him in *Portuons* be the Justice clerk, and nane vthers. *Iac. 1. parl. 13. c. 139.* Bot all arreistments, suld be made, before the time of the beginning, of the justice aire, and na wayes efter the samin. *Iac. 3. parl. 7. c. 58.*

THE TIME AND PERSONS, QVHA may be arreisted. CHAP. 11.

ALL persons charged to compeir in the justice air, suld be attached and summoned, be the auld law of this Realme, vpon fourtie dayes at the least. *Stat. V Vilh. c. 2.* na man suld be attached, or arreisted, except dittay be given vp vpon him. *Stat. Alex. c. 2.*

ASSESSOVS TO THE CROWNER. CHAP. 12.

ALL the indwellers within the towne, or village, suld concur, and assist the crouner, in attachment, or arresting ony malefactor, to compeir in the justice air, to vnderly the law. *Stat. Alex. c. 2.*

ARREISTMENT OF DISOBEDIENT persons. CHAP. 13.

ANd siclike quhen the Crouner receiues his *Portuons*, containand the name, of any person indited, quha will not obey him; or quhom he dare not, nor is necht of power to arreist: he sall pas to the Lord of the Baronie, quheir in that perlon dwells: vtherwaies gif he dwells not within ane Baronie; he sall pas to the Schiref of the shire: and require him, to be borgh and lovertie to enter the said person to the justice aire: quhilk gif the Baron or Schiref refusis, the Crouner sall require them, to send their officers, and sufficient number with them, to fortifie, and supplie him, in making of his arreistment, taking, and keiping of the saidis disobedient persons, quhile they be brocht to the Schierif, to

to be kept be him, vntill the time of the justice aire. *Jac. 3. parl. 14. c. 99.*

OF THEM QVHA MAY NOT FINDE
ane borgh. CHAP. 14.

MAirover the Crouner fall bring all persons arreisted be him, quha hes not, nor may not, finde borrowes, to the Scherif of the shire, quha fall receiue them in suretie, and fir-
mance, vpon the Kings expenses: and quhair it failzie, on their awne gudes, quhile the next justice air, and there present them, to the justice. *Jac. 3. parl. 14. c. 102.*

THE GVDES OF THE PERSONS AR-
reisted: and the Crouners sustentation.
CHAP. 15.

THe Crouner or makers of the attachmentis, and arreist-
ments, suld not intronnet, or carie away any gudes or gier,
perteining to the persons attached. Bot the Lord, or officiar of
the towne, fall susteine them reatonable, vpon the expenses of
the said person, be the space of ane day and ane nicht. *Stat. Alex. c. 2.* And gif the said person can not be personally apprehended:
the Crouner may remaine in his dwelling house, ane day and
ane nicht; and suld be susteined with twa sermandis, and vther
twa, as witnes, and his clerk: vtherwaies he suld haue twa shil-
lings; and sa may not take any mair of the gudes and geir, pertei-
ning to the said partie attached, albeit he be absent. *Leg. Malc. Mack. c. 3.*

PROBATION OF ARREISTMENTS,
and the Crouners fie. CHAP. 16.

ATtachments, and arreistments made be Crouners, and ser-
jeands, may be provin by them, and be witnes. *Jac. 3. parl. 7. c. 52.* That is, be the aith of the Crouner, and ane witnes; conforme
to the auld consuetude. *Jac. 5. parl. 4. c. 33.* the Crouner fall haue
for his fie for ilk man amerciast, or componand, ane Colpindach,
or thirtie pennies; for him quha is cleinged be ane assise, the
Crouner fall haue na thing; for ane man filed, or condemned,
the Crouner fall haue all the dantoned horte, nocht shod. *Leg. Mal. 2. c. 3.* Quhilk is to be vnderstand of dantoned horse deput
to

Iustice Air.

to warke and not to the sadle, that were never shod, nor vsed to shone. *Jac. 3. parl. 14. c. 113.* The Crouner shold haue all the cornes ly and in bings, and mowes casten and broken, all the in-sicht vtensill and domicill, within the inner parte of the house, that is, within the cruke, hing and vpon the fire; and all and sundrie sheip within twentie; and all the swyne and gates within ten. *leg. Malc. 2. c. 8.*

PRAECEPTVM ITINERIS IUSTITIARII

CHAP. 17.

ATtachments, or arreistments being made or directed to be made, or in the time of the making thereof, the Justice generall directes ane charge, called *praeceptum itineris iustitiariae*, to the Schiref and his depures, in maner and forme following; *Vilhelmus Iustitiarius domini Regis generaliter constitutus, vicecomiti & Balliuis suis de E. salutem. Quia ordinamus iter iustitiariae, domini nostri Regis, Deo duce, tenendum de tota ballia vestra, apud E. 10. die mensis N. proxime futuri, cum continuatione dierum. Vobis precipimus & mandamus, quatenus summoneat, seu summoneri faciat, legitime, & coram testibus legalibus, omnes Episcopos, Abbates, Priores, Comites, Barones, & ceteros libere-tenentes, totius Balliae vestrae, qui seetas debent. Ac etiam omnes illos, qui nihil nisi suas debent praesentias, qui de Domino nostro Rege tenent in capite. Quod compareant coram nobis, seu deputatis nostris, pluribus aut uno, dictis die & loco, cum continuatione dierum, ad persciendum, subeundum, & determinandum, id quod in hac parte, juris ordo postulat. Premoneatis etiam, omnes iudicatos, tam de novo, quam de veteri, & suos plegios, qui nondum coram nobis comparuerunt, & iudicium subierunt: ac etiam illos qui prosequi habent, vel defendere in dicto itinere, secundum formam juris; quod compareant coram nobis seu deputatis nostris, pluribus, aut uno dictis die, & loco, cum dicta continuatione dierum, ad persciendum & subeundum id quod in hac parte juris ordo requirit. Et sitis vos Vice-comes, & Balliui, vestri, ibidem, dictis die & loco, cum dicta continuatione dierum; habentes vobiscum summonitionis, ac praemonitionis vestrae testimonium, & hoc Breve. Provideatis insuper pro expensis nostris, bene & competenter; quas vobis in vestris primis computis, de exitibus iustitiariae reddendis, vobis faciemus plenius allocari: Et hoc nullatenus omittatis sub omni poena, quae competit in hac parte. Datum sub Sigillo*

Sigillo nostri officij Iustitiarie.

THE PERSONS QVHA SVLD AS-

sist the Iustice in his aire.

CHAP. 18.

QVHER precept, and command, is conforme to the lawis of this Realme. Because all frie-halders, halding land in chief of the King, within the Scherifdome, quhairin the Iustice air is haldin, suld compeir & be present, all excuse set aside, (except the same be of seicknes, the Kings service, or tinsell of landis and heritage) To certifie and informe the Iustice, and his deputis in sic questions and doubtis, quhilk incidently arysis as emergent, and of before, culd not be forlene, nor knawin. *quon. attach. c. 79.* Sic as Bishops, Abbots, Priours, Earles, Barons, and vther frietenents, being summoned, and warned, to that effect. *stat. V Vilh. c. 2.* And they being lawfully warned, and not compeirand, incurs the paine, of the vnlaw of the court: and may be punished as favorers of the transgressours, and airt & pairt with them. *Jac. 4. parl. 3. c. 29.*

HOW ALL MEN SVLD COME

to Iustice airis.

CHAP. 19.

ANd they, and all vther the Kings lieges, suld come to the Iustice air, and to all vther courtis, in sober and quiet manner; and suld bring with them, na ma persons, then are dailie in their houthold, and families. And being come to their Innes, and lodging, suld lay their armour, and weapons from them, and vse na weapons, bot their knife. *Jac. 2. parl. 12. c. 83.*

NA MAN SVLD MAINTeine MA-

lefactours.

CHAP. 20.

MAirover all Lords spirituall, and temperall, Barons, and vthers cummand to the Iustice air, suld na waies maintein, fortifie, defend, supplie, nor be Advocats, nor stand at the bar, with manifest traitours, men-slayers, thieves, reveris, and vther trespassours, nor persons perteming to them selfis, or vthers. Saifand it fall be lesum to them, in sober wayes, to stand with their kine, and friendis, in defence of them, in their honest actions.

Justice Air.

actions. *Iac. 3. parl. 14. c. 98.*

JUSTICE AIRIS WITHIN THE BORDERS.

CHAP. 21.

QWhen the Justice air is to be haldin vpon the borders: the wardanes within their wardanries, and their deputis, with the frieholders of the Scherifdome, being warned ~~thence~~ be the Scherif, be open proclamation, suld convoy the justice, and his deputis, to the place appointed, for halding of the court: and accompanie them, induring their residence; and vntill they be out of the boundes of their Scherifdome, and received be the next Scherif. *Jac. 6. parl. 11. c. 81.*

OF PERSONS INDITED OF

auld, and of new.

CHAP. 22.

IN the justice air, suld compeir all persons attached, and arreisted, conform to the dittay, given and takin vp vpon them; quhair of some were arreisted of before, to haue compeired in the justice court preceeding, already ended, & expired, & compered not in the samin: quhais names are givē to the Crouner, to be of new attached, and arreisted to the air following, as of before; vthers are of new indited vpon quhom no paine of dittay was takin vp, in any time bygen, quhais names are comprehended in ane catalogue, called *Portuons*: all the foresaids persons indited, baith of auld & new, suld be attached, and arreisted be the Crouner, to compeir and vnderly the law the time of the justice air, as is manifest be the precept foresaid, direct be the justice generall to the Scherif.

PERSONS ARREISTED MAY

be apprehended.

CHAP. 23.

ALL persons arreisted, that may be apprehended, the time of the air, in the Tolbuith, or in the towne, quhair the justice is, fall be takin, and delivered to the justice, to be iustified, for their crimes and trespasses: Swa that the arreistment be made, before the time of the beginning of the justice air, and seat of justice.

Iac. 3. parl. 7. c. 57.

LANDIS

LANDIS ANNEXED.

CHAP. 16.

Q Vhair lands, lyand in sundrie Scherifdomes, are annexed and vnited in ane Baronie; the inhabitants thereof, fall answer in the Iustice court, quhair the lands lies; and the Lord, or proprietor of the landis annexed, giues presence, or service in the court of the Sherifdome, within the quilk the barronie lyes. *Iac. 4. parl. 6. c. 93.* for in this case, respect and considerations, is hald to the naturall situation of the Landis, and to the Iurisdiction, within the quilk they lie: rather nor to the imaginar, and civill forme of lying, of the landis, be annexation.

INHABITANTS OF STEWARTRIES,

and Bailliries. CHAP. 25.

AT our all the inhabitants of Stewartries, and Bailliries, fall come to the head burgh of the Sherifdome, quherein they lie: And within the quhilk head burgh, the Kings justice airs are haldin. *Jac. 6. parl. 11. c. 81.*

THE IVSTITIAR GENERALL HIS FIE.

And also the Iustice Clerk his fie.

CHAP. 26.

THe justice generall suld haue for his sustentation, ilk day of the air five pund. Like as the justice clerk, suld receiue for ilk man cleinged, be ane assise, and drawne furth of the Rollis, four pennies, and for ilk man amerciati, or componand, twa shillings. *Leg. Male. 2. c. 3.* for ilk aetorney, and commission twa shillings; for ilk man that comes in the justice will, twa shillings; for ilk man convict and filed, twa shillings: for ilk letter of witnes sax shillings aucht pennies.

THE SCHERIF, AND THE CROW-

ner suld be present.

CHAP. 27.

THe Sherif suld be present, as he quha is warned, be the Iustice precept, to answer to all points theirow; And touching the execution of his office. Togidder with the Crowner, quha suld answer to his attachmentis, and arreistmentis, and verification theirow; And the Sherif with the Crowner suld thoil ane assise, the

Iustice Air.

the last day of the air, anent the vsing, and execution of their offices, to quhom Iustice suld be ministrat, as they sall be found innocent, or culpable. *Jac. 3. parl. 14. c. 103.*

IVSTICE AIR.

CHAP. 28.

THe day of compeirance being come, to the quhilk the justice air is cryed and proclaimed, the Iustice, and his deputs suld compeir, with all vther persons, charged and commanded to concur, and assist with them, at the quilk time, the soytes suld be first called, with their Lords, and maisters; for albeit the soytouris compeir, nevertheles their Lords and maisters, likewaies are obliged to compeir, and to giue presence to the Iustice, in his air, they being lawfully summoned and charged to that effect, be open proclamation, and be the Iustice precept aboue written.

The commission, and power giuen to the Iustice suld be produced and red, and gif the commission, be given and granted, to mac persons nor ane coniunctly: they suld be all present; vtherwaies it is na lawfull court: Bot gif they be constitute, coniunctly, and severally: It is sufficient that ony ane of them be present.

And mairover, the Iustice may not make, and constitute, deputs, or substitutes vnder him, except he haue speciall power, in his commission to doe the samyn.

Thridly, the Judge suld begin and fence the court, conforme to the common order, and consuetude, vsed and observed. *Jac. 6. parl. 11. c. 81.* Quhilk suld be done at eleuin houres before none. *Jac. 6. parl. 11. c. 86.*

Fourtly, the court being affirmed, the dempster suld be called, and caused to be sworne, that he sall leilelie and truly, vse and exerce his office.

Fiftly, the soytes suld be called. *Jac. 6. parl. 11. c. 81.* Zit againe, as of befoir, ilk man twise, with their Lords, and maisters, and the absentis decerned to haue failyed, and therifoir suld be vnlawed, and gif baith the soytour, and his maister be absent, ilk ane of them, be themselues suld be americiat.

Sixtly, the assitours being summoned, be ane precept direct be the Iustice to that effect, suld be called, ilk person vnder the
paine

paine of fourtie pounds; and the Iustice may chuse assise, ane or mae, as he pleates, of the best and most worthie of the cuntrie, before quhom the haill accusation, reasoning, writes, witnelles, and other probation and instruction quhatsumever of the crime, salbe reasoned and deduced in their presence, & also in presence of the partie accused in face of the judgement. *lac. 6. parl. 11. c. 90.*

91. And it is to witt, that he quha gives vp dittay vpon ane other, fall not passe vpon his assise. *Jac. 1. parl. 3. c. 50.* The Justice tould proceed in his Court, and put the offenders, gif any be already in prison, to the knowlege of ane assise, and minister justice vpon them, as they salbe found innocent, or culpable. *Jac. 6. parl. 11. c. 81.*

Prisoners.

He fall call thereafter the pledges and cautioners of persons attached, quha fand soverty befor the Justice any time preceding at any particular dyet, or Court, to compeir the thrid day of the air, or soner vpon fiftene dayes warning. *Jac. 6. parl. 11. c. 81.*

Pledges and cautioners.

This being done, the Clerk fall visit and consider, the haill rolles and journal, and call all them quha are absent from the airs preceeding; vpon quha is names and heads is written, *Prima dies, secunda dies, tertia dies*; be the quhilk he vnderstands fra quhat Air or Court they were absent, and that they may be therefore amerced, ilk ane of them be them selues, be reason of their absence: And gif the laids persons not compeir and of before, now compeires, and are present; the Clerk fall luke the auld dittayes and rolles, accuse them conforme thereto, in the best maner he may gudlie: And gif there be na particular poynt of dittay or accusation, he fall lay common dittay to their charge.

Absents fra the Courts preceeding.

Thereafter the Iustice fall call the persons newlie indyted, and arreisted, and gif they, or any other of the arreisted persons foresaides compeir, they sould be presented to the Court, and the Schiref; quha sould answer for them, vntill justice be done vpon them.

Persons of new indyted.

They quha are attached, and compeires not, may na wayes be excused for their not compeirance, bot be the Kings service, quhilk sould be verified be the Kings letter, produced in Court; or be reason of seiknes, quhilk be the auld law was tryed be ane assise, quhither it was trew or feinzied, albeit the partie was absent. *stat. 1. Rob. i. c. 6.* Bot now it sould be proven, and verified be the Minister of the parochie, within the quhilk the person accused dwelles, and be twa witnes personalie compeir and in

Absents not compeir and.

Justice Air.

judgement. *Iac. 1. parl. 9. c. 114.* And concerning persons absent, it is generallie ordeined, that everie Baron and Frie-halder, fall answere in the Justice Air, for his awin men, dwelland vpon his awin proper lands, taks steidings, roumes, and Baronies, and salbe halden to enter them, or elie answeir to the King for their vn-laws. *Iac. 5. parl. 3. c. 6.* Quhat is the vnlaw in the Justice air, *vid. Amerciamentum.* Bot for the better vnderstanding of the lawes, concerning fugitiues and absentes; it is to witt, that the auld Law of this Realme, gif the partie defender being lawfullie warned, compeired not, bot send ane ellonzie, or excuse, the samine being reasonable, was receaved and admitted be the Judge, thrie sundrie dayes or Courts. And gif he compeir and afterward, verified not his ellonzies to be lawfull; he or his pledge was distrenzied, and poinded therefore: Bot gif he neither came, nor send ane excuse, the persewer compeired at lawfull day, and time of Court, and offered him readie to persew, quhilk he did be the space of thrie dayes, or thrie Courts. And the thrid Court being by past, the defender was summoned to compeir the fourt day. The quhilk fourt day was peremptour, because sentence definitive was given against him, conforme to the clame and petition, gif he compeired not. *lib. 1. c. 8.* The like forme and ordour of proceffe, was observed in Justice Courts, for mention is made of the first air. *Iac. 3. parl. 11. c. 94.* And of the secund air. *Iac. 5. parl. 4. c. 32.* And of the fourt Court. *Iac. 3. parl. 14. c. 101.* And gif any person indyted, and lawfullie attached, compeired not the said thrie Courts; his pledges or borghs was called, and amerciat for the first, secund, and thrid courts: And at ilk time, after ilk ane of the saids Courts, the said pledge was poyned and distrenzied, and the distresse or poind was lettin to bergh, and made frie vnder caution, that the said person indyted, sould compeir in the next air following, to vnderly the law. And gif he was absent at the fourt Court, the peremptour doome was given against him, that sic ane man was in ane amerciamment, and at the Kings horne, and his lands, and all his gudes escheit to the King, except he come within fourtie dayes, and bide the Law. And thereafter the Court being ended, the said person was denounced rebell and put to the horne, openlie at the merkat croce of the head burgh of the shyre. Quhilk forme of proces was so lang and prolix, that in many zeares, parties hurt and grived,

gat na justice: And trespassours and crimes passed vnpunished, quhilk was the occasion to many persons, to commit crimes, trusting na hastie punishment, nor correction to follow: Therefore King *James 5.* statute and ordeined, that the procelle of Justice Air, and justice Courts, sould be peremptour at the secund Air or Court: Swa that fugitiues not compeirand at the secund Air or Court, sould be denounced the Kings rebelles, and put to his horne, and all their moveable gudes escheit. *Jac. 5. parl. 4. c. 32.* Quhilk is conform to the law made be king *Rob. 3.* of before. *stat. Rob. 3. c. 31.* And I find in ane auld buke and law, quhere it is statut that the first day or Court is peremptour, and that all things may be done thereintill, quhilk of auld micht haue bene done in the fourt court, quhilk is cōform to the vse & practick now observed

The second Court.

The first Court.

OF REGALITIE. CHAP. 29.

HEirafter the Lords of Regalitie, may desire their men to be remitted to their awin justice court, & repledge them, shaw and their commissions, and pay and therefore; and leauand ane caution behind them, called *Culreach*, quha sall be actet and oblissed in the Justice Court, that justice sall be done and ministrat in the Court of the Regalitie, to the partie compleinand vpon the person repledged fra the said Court of the Justiciar.

OF BORROWVS AND THEIR RE- plegiation. CHAP. 30.

THe Justice, or his Clerk sall demand, and speir at the Baillics of Burrowes, gif they be readie to present ilk Burges within their burgh, indyted to the kings justice air, quhilks perions sould al enter personalie before the justice, vnder the pain of ane vnlaw & amerciament of court; quha is names the saids baillics sal put in writ, and deliver the samin to the justice, or his clerks; and gif they will borrow, or repledge their saids neighbours, they sall shaw their commission, and pay therefore; and thereafter they sal draw or obliss them selues, their commission, and borgh in pledge, that the persons quhom they repledge, and quha is names they gaue in writ, sal be forthcumand, and answerabil to the lawes, and challenge of the justice: At the quhilk time he and his deputes sall assigne to them ane certaine day, to vnderly the law, either in that air, or thereafter quhen he sall think speidfull. And at the samin time, it is lesome to the Kings justice, sittand in the principall burgh

Justice Air.

burgh of the Royaltie, to giue ane assise to all the saids Burgeses repredged, of their awin neighbours that best knowes the veritie, dwelland in the same burgh with them: And gif there be not ane sufficient number of the saids comburgeses, it fall be lesome to choote ane assise of the burgeses of the said heid-burgh, quhere the Justice and his deputs sits, as he fall think expedient. *Jac. 4. parl. 1. c. 1. 8.*

OF REMISSIONS AND RESPITS.

CHAP. 31.

Act of adjournall.

GIf the partie accused compeir and alledges to his justice remission or respit, he sal produce the samin in court, and fall finde sicker borrowes, to assith and content the partie cōplein and within fourtie dayes following, quherevpon ane act is made in court, quhereby he and his cautioner are oblithed to assith and satisfie the partie within the space foresaid, quhilk is called ane act of Adjournall. And gif he refuses to finde caution, he fall remaine in the Kings prison, quhill the said fourtie dayes be run out, and then his remission fall be expired, and of na value. *Jac. 2. parl. 14. c. 75.* And in this case quhen any man takes him to his remission, respit, or composition, in the Justice air, or Justice court, and finds sovertie to assith the partie: It is lesome to the partie to call the said sovertie before the Lords of Counsell, conforme to the act of adjournall made thereanent. *Iac. 5. parl. 3. c. 7.* As gif any man becomes sovertie for ane ither, anent spuilzie committed be him, and for restitution or satisfaction to be made be him therefore; he as sovertie may be called, and conveyned for the gudes spuilzied, for the violent prices thereof, for the damage, skaith, and interest susteined be the perlew, throw the committing of the said spulzie. *10. Mart. 1500. V William Keith contrair the Earle of Caitnes.* And the said sovertie being condemned, hes gude action against the principall partie, for his releif be ane simple charge, vpon sax dayes warning, without peremptour summons, or order of table. *11. Julij 1543.*

OF THE ASSISE. CHAP. 32.

GIf the person attached compeirs in the Court; and being accused hes na relevant exception, or reasonable defence, of necessitie he sould passe to the knowledge of ane assise, conforme to the

the lawes of the Realme. At the quhilk time the haill assisours sould be called, and the abents americiat. *Jac. 6. parl. 11. c. 76.* And the partie accused, sould be heard to propone all and fundrie his lawtul defences againtt the haill assisours, or any of them, to repel them, as he may best of the law, and stay them to passe vpon his assise.

OF THEM QVHA COMES IN VVILL.

CHAP. 33.

AT this time, the person compeirand and accused, comes in the will of the Justice, or he is clenged be ane assise, or he is filed and convict. Gif he submittes himselfe, and comes in will, it is lesome to the justice to draw him forth of the rolles, and to declare his will, and to charge him to pay ane composition, or sic ane soume of silver, as he pleases to modifie, after the qualitie of the crime and person, for vptaking and inbringing quhereof, the Justice air being ended, the Justice directis his precept, called *Præceptum extractus itineris justitiarie*, in this forme: *V Vilhelmus Justitiarius generalis, &c. Vice-comiti & Ballivis suis de E. Salutem. Quia in itinere justitiarie domini nostri Regis, per nos ultimo tento, apud ff. decimo die mensis N. anno domini, &c. diversi fuerunt americiati, & pro suis delictis convicti, & in nostra voluntate positi; quare vobis precipimus & mandamus, quatenus de infra scriptis personis, subscriptas summas levare faciatis, & pro iisdem secundum formam juris distringatis, & primo d. N. summam, &c. de quibusquidem summis, solvatis pro expensis nostris, indicto itinere, summam N. residuum vero dictarum summarum, solvatis cofferariis domini nostri Regis, vel cui vobis assignabitur infra legitimum tempus; hoc est, infra quadraginta dies, primum diem dicti itineris, proxime, & immediate sequentes. Et hoc nullo modo omittans.*

The precept of extracts.

OF THEM QVHA ARE CLENGED.

CHAP. 34.

QWhen any man is clenged be ane assise, the Justice directis his testimoniall, called *Litera testimonialis de homine mandato*, per assisam, in maner following, *V Vilhelmus justitiarius generalis, universis & singulis, ad quorum notitias presentes litera pervenerint, Salutem. Noveritis, quod comparens coram nobis, in itinere justitiarie, domini nostri Regis, tento apud ff. decimo die mensis N.*

Iustice Air.

anno domini, &c. J. de B. judicatus, & per rotulos Regios calumniatus, de arte & parte talis furti, vel talis rapine vel incendiij, &c. Quanquidem calumniam dictus l. in facie judicij penitus denegavit: Et super hoc ad recognitionem assise utiq; se submitit. Quaequidem assisa hinc inde diligenter consultata, & plenius avisata, dictum l. a dictis calumniis sibi impositis, qui eum declaravit penitus, & immunem: Et hoc omnibus quorum interest, vel interesse poterit, notum facimus per presentes, in cuius rei testimonium, sigillum officij nostri appendi curavimus.

ANENT THE ACCUSATION OF THEM quha comes in will, or are clenged. CHAP. 35.

ALL they quha comes in will, and are drawn forth of the rolles, and also they quha are clenged be ane assise, can na wayes in any time thereafter be called or accused for that crime, for the quhilk they come in will, or of the quhilk they are clenged: For anes quite and clenged, aye quite and clenged for that crime. Yet nevertheles, gif any person be accused criminalie, of life and limme, at the instance of ane other man onely, and is clenged and made quite; the Kings Justice and his deputs, be reason of their office, may thereafter take inquisition, anent the said crime, and in the Kings name accuse the committer thereof conforme to the law; notwithstanding that of before he was clenged thereof be ane assise, at the instance of ane partie. *lib. 4. c. 25.* Because the action or persute of any privat partie, prejudges not the King in his richt, or entres competent to him, be reason of his royall power. And therefore the Thesaurer, or the Kings Advocat, may persew all malefactours, albeit the parties desist, or privatlie aggrie amongst them selues. *Jac. 6. parl. 11. c. 76. quon. attach. c. 42.*

PENALTIES OF PERSONS CON- demned. CHAP. 36.

QWhen trespassours and malefactours are convict as breakers of the statutes, and acts containd dittay, they sould be punished according to justice, and to the tenour and penalties contained in the acts broken and contravined be them. *Jac. 4. parl. 4. c. 405.* And gif the paine contained in the act be pecuniall, they sould pay the samine; and gif it be capitall, they sould vnderly

derly and suffer the samin, except the King giue them remission, and speciall grace thereanent.

THE GYDES PERTEINING TO THE
malefactour. CHAP. 37.

THE Crowner may not intronmet with any gudes or geir pertaining to the trespassour conuict, and condemned to the death, at his awin hand, vntill the Schiref and his deputes patle or send with him, and visit all the haill gudes, and deliver to the Crowner sa meikill as he sould haue, be reason of his office, and bring the remanent to our Soveraine Lord, and his Thesaurer. *Iac. 3. parl. 14. c. 102.*

SCHIREF AND CROVNER.
CHAP. 38.

THE last day of the Justice Air, the Schiref, and the Crowner, fall thoil ane assise anent the vling and execution of their offices, gif they be culpabill thereanent or not, as is be foresaid,

EXTRACTS OF THE JUSTICE AIR.
CHAP. 39.

THE Justice air being ended, the Justice fall deliver the extracts thereof, subscribed be him, to the Thesaurer, quha fall cause take vp the summes, conteined in the saids extracts, and sal make compt thereof, in the next checker, in the quhilk compt fall be allowed the expensis and chargis of the justice, his deputes and Clerkes, as the samine fall be modified be the Lords auditors of the Checker. *Iac. 6. parl. 11. c. 81.* The forme of the quhilk precept concerning all malefactours, quha comes in will, is before expressed.

PAR-



PARTICVLAR COVRTS AND DYETS

BEFORE THE IUSTITIAR GENERAL.

TIT. 10.

CHAP. 1.



WHEN ANY LETTERS SHALL happen to be direct for any crime, or offence, to any particular diet before the Justitiar, the keeper of the signet shall answer no sic letters, but give the same be subscribed by the Clerk writer to the signet, and the Justice Clerk and his deputies. And that the Justice Clerk and his deputies, shall take better soverie of the purchaser of sic letters, that they shall bring the same againe to them, before the day set thereto dewlie execute, and indorse, vnder the paines contained in the letters that the partie is called vpon. *Jac. 5. parl. 4. c. 34.*

2. *Item*, the purchaser of the saids letters, shall finde caution to the Justice Clerk, and his deputies, that he shall not enter within the place where the Court is to be holden, but with the number of persons specified in the act of Parliament, *viz.* foure persons in number, comptand therein the preloquutours. *Jac. 6. parl. 8. c. 140.* vnder the paine fore said.

3. *Item*, letters to be raised to particular dyets, shall contene any command to the Officiar to charge the persons delated, and complemed vpon, to finde better soverie within six dayes, next after they be charged, that they shall compeer the day and place contained in the saids letters, accompanied in sober maner, with their domestick and household servants, &c. *Jac. 6. parl. 8. c. 140.*

4. *Item*, the Justice Clerk and his deputies, shall take caution and soverie, not onely for againe bringing of the letters dewlie execut and indorse; but also that the raiser thereof, shall persue the same letters at the day appointed. *Jac. 6. parl. 6. c. 78.*

5. The

5. The summons sould be execut be ane Officiar sworne and admitted be lawfull, and sufficient witnes. *lib. 1. c. 6. 2.* And sall be subscribed be the officiar executor thereof, and delivered to the partie. *Iac. 6. parl. 12. c. 139.* Gif he can be apprehended personalie; and failzeing thereof, sall be delivered to his wife and servants, or affixed vpon the zet of his dwelling place, gif he any hes. And thereafter open proclamation being made, at the head burgh of the shyre, ane other coppie to be affixed vpon the market croce. *Mar. parl. 6. c. 33.*

6. Bot gif any man is charged to vnderly the law for treason, sic letters and charges sould be execut be ordinar heraulds & pursuivants, beirand coats of armes, or be Masers. *Iac. 6. parl. 12. c. 125.*

7. Be the auld law of this Realme, the summons sould not be execut in time of nicht, bot quhen the Sunne shines; and swa not before the Sunne ryfing, nor ganging downe of the samine, nor zit vpon ane Sunday. *quon. attach. c. 6. 14.* Bot the act of Parliament all criminall letters, and others quhatsumever that imports tinfell of life and moveable gudes, sall be dewlie execute vpon all persons contened therein, either personalie, or at their dwelling places, and be open proclamation at the market croces, of the head burghs of the shire, quhere the parties dwelles, betwix aucht houres in the morning, and twelue houres at noone, Sommer and Winter, in open time of day, in presence of famous witnes, speciallie designed, and coppies affixed vpon the zettes, or doores of the dwelling houses of the persons contened therein, with their hail names; and ane other coppie vpon the market croce; and that caution be found to the Iustice Clerk, and the deputies to this effect. *Iac. 6. parl. 11. c. 85.*

*Time of execution
thereof.*

PERSEVVER BEFORE THE JUSTITIAR.

CHAP. 2.

IN all justice aires, or particular dyets, the King at the instance of his Thesaurer and Advocat, may pursew slaughters, and other crimes, althocht the parties be silent, or wald otherwais privilegie aggrie. *Iac. 6. parl. 11. c. 76. lib. 4. c. 1. 3.* Because in sic causes the King and his Justitiar, are persewers. *lib. 1. c. 1. 9.* And albeit the persewer compeir, and his persute or clame is repelled, be reason of lawfull and relevant exceptions proponed against the samine, be the defender: Nevertheles, the Kings Iustitiar may take inqui-

The King onely.

Iustice Courts.

inquisition be ane gude assise, anent the deid done be the defender, and gif he be found gilty, judgement may be execut against him preceisslie. *lib. 4. c. 1. 28. quon. attach. c. 42. Jac. 1. parl. 6. c. 95.*

The partie onely. 2. The partie haue and entres, only may complene & persew for slauchter, or any other crime. *1ac. 1. parl. 6. c. 89. quon. attach. c. 95. Jac. 4. parl. 6. c. 28.*

King & the partie 3. The kings Thesaurer and Advocat, with the assistance of the partie may accuse ane trespassour for any crime committed be him, conform to the common law, and practick of this realm.

4. The persewer of any crime, sall haue four friendes onely with him at the Bar. *Mar. parl. 6. c. 41. comptand therein his preloquutours. Jac. 6. parl. 8. c. 140.*

5. Of soverties and caution found be the persewer. *vid. Summons.* The persewer sould come to the iustice court, in sober and quyet maner, and sall not bring with him ma persons then his familiars, in his daily houshold; and quhen he comes to his ludging he sall lay his armes fra him. *Jac. 2. parl. 14. c. 83. Jac. 3. parl. 13. c. 104 Jac. 6. parl. 5. c. 140.*

DEFENDER BEFORE THE JUSTITIAR.

CHAP. 3.

Defender absent. **T**He defender being lawfullie charged, and not compeirand, sould be denounced rebell and put to the horne, and all his gudes escheited and brocht to the kings vse. *1ac. 3. parl. 14. c. 100.*

The maner of compeirance. 2. Gif the defender finds caution, and compeir; he sould come in sober and quiet maner, as said is, of the persewer; & he sal haue with him at the bar, sax of his friends only, quherein his procuratours are comprehended: And gif he compeirs with ane greater number, his sovertie sal be vnlawed, and he decerned to be as fugitiue and absent. And the gudes moueable to him pertainand, and to them quha are supernumerar, sould be escheited. *1ac. 2. parl. 14. c. 83. 1ac. 3. parl. 13. c. 140. Jac. 6. parl. 8. c. 140.*

Defenders procuratours. 3. It is lesome to all men accused of treason, or quhatsumever crime, to haue their Advocats and procuratours, to vse all their lawfull defenses quhom the Iudge sall compell to procure for them, in case they refuse. *Jac. 6. parl. 11. c. 90.*

Complices. 4. Item, the iustice Clerk and his deputs, sall direct na letters, for calling of any complices generallie to vnderly the law, bot that

that the letters contene the speciall persons complened vpon.

Iac. 6. parl. 6. c. 76.

4. Gif ane man commands ane cryme to be committed be ane other; or gif ane man resettes the malefactor, after the committing of the crime; the commander, or the resetter sould not be challenged or accused, vntill the principall malefactor be first filed and convict. *lib. 4. c. 26.* And quhen he is filed, the commander, or resetter fall thoill ane assise: And gif the principall malefactor happins to be clenged; they fall likewaies be quite and clene, without ane assise. *stat. David. 2. c. 29. quon. attach. c. 83.*

THE ASSISE BEFORE THE JUSTITIAR.

CHAP. 4.

QWhen the defender hes na relevant exception agains the persewer, nor contrair the clame and libell; then the mater fall passe to ane gude assise. *lib. 1. c. 12.* Because all crimes sould be tried before the Justitiar, and other inferiour judges in criminal causes, be ane lawfull assise. *stat. Alex. c. 2.* The officiar, executour of the letters, sould not summond any mae persons vpon ane assise then fourtie five; quhilks he fall receave in roll fra the partie persewer, subscribed with his hand, or be ane Notar, and fall annex the samine roll, vnaltered or cancelled to the end of his executions. *Iac. 6. parl. 6. c. 76. parl. 11. c. 88.*

Summons of the Assisours.

2. Gif the assisours being lawfully summoned, compeirs not; they may be vnlawed in the summe of fourtie pounds. *Iac. 6. parl. 11. c. 76. c. 81. Jac. 6. parl. 22. c. 126.* In criminal causes concerning tinsell of life, of limme, or land, the assisours sould be faithfull gude men, and friehalders be chartours. *stat. Alex. c. 3.*

Assisours absent.

Quha sould be Assisours.

3. Na man sould be judged be ane man of inferiour estate, bot be his awin peirs; that is ane Earle, be Earles; ane Baron, be Barons; ane friehalder, be friehalders; ane Burges, be Burgesles. Bot ane man of inferiour estate, may be judged be ane man of greater estate. *quon. attach. c. 67. stat. Alex. c. 2. 7.*

4. He quha indites ane other for any action, or giues information against him, sould not be vpon assise. *Iac. 1. parl. 3. c. 50.* For all persons suspect to either of the parties, sould be repelled, and incontinent triell and cognition salbe taken be the assise. *lib. 1. c. 12.*

5. The assisours sal sweir the great oath, that they fall the suth say, and na suth conceill, according to their knowledge. *leg. burg.*

c. 127.

Iustice Courts.

c. 127. And mairover, the Judge sall gar the assisours sweir in making of their eath quhen they are charged to the assise, that they neither haue taken, or sall take meed of buds of any partie; or gif any be given or hecht, or any praier or request made before the giving out of the declaration, and determination of the assisours.

Jac. 1. parl. 13. c. 138.

*Probation before
the assise.*

6. All and hail the accusation, reasoning, writtes, witnelles, and other probation, and instruction quhatsumever of the crime sall be alledged, reasoned, and deduced to the assise, in prelence of the partie accused, in face of judgement, and na otherwayes. *Jac.*

6. parl. 11. c. 90.

*Assisours doubt-
and.*

7. And gif any of the assisours hes any doubt quhereof they wald be resolved, they sal propone the samin openly in judgmet.

They are inclosed.

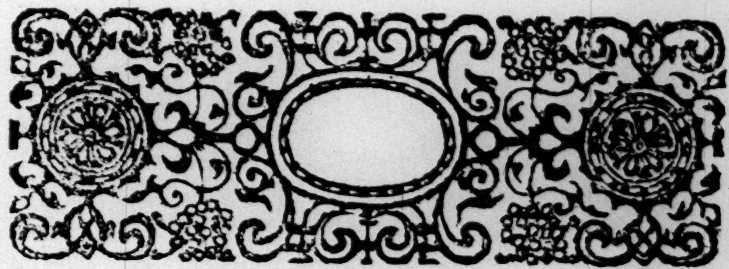
8. The assisours being closed in ane house be them selues, na person sal repair to them vnder any cullour, pretence, or occasion quhatsumever; and they sal not cum forth of the house, vntil they be agried, and returne their answer be the mouth of their Chancellor, to the Iudge. And gif any of the acculers, informers of the Kings Advocat, or other person quhatsumever in formes, solists, reasons, disputes, speiks, or repairs to the saids assise, after their removing forth of judgement, and inclosing of them. In that case, the partie accused, sall be halden and pronounced clene and innocent of the crimes and treason, then laid to his charge. *Jac. 6.*

par. 11. c. 91.

*False Assise and
great assise.*

9. Gif ane assise in accusation of ane manifest and notour trespassour, be favors or partiall means acquites him; they quha acquitted him, gif they grant not, nor confessis their fault, sall be called and accused be the king. Quha sall giue them ane great assise, of twentie five noble persons; and shaw to that assise, the evidents or notour knowledge of the trespassse, in sa farre as was shawin to the first assise. And being found that the first assise did acquite the trespassour be favours, or partialitie: swa many as are convict to haue done swa, they tine and forfault all their moveable gudes, and sall remaine in prison ane zeare and ane day, and sall be esteemed infamous, & perjured. Nevertheles the trespassour quha was acquyte be the first assise, sall remaine clene, and quite, after the forme of the first deliverance. *lib. 1. c. 14. Jac. 3. parl. 8. c. 63.*

THE



THE SCHIREFS JV. RISDICTION IN CRI- MINALL CAUSES.

TIT. II.



HE SCHIREF BE THE
auld law of this Realme, may cognosce
and sit vpon thift (like as zit he may
doc) and vpon man-slauchter, quhen
ane certaine accuser compeirs to per-
sew. *lib. 1. c. 1. 8.*

2. The Schiref may accuse ane
theit of common thift, as the Justitiar
may doc. *quon. attach. c. 42.*

3. He may persew and follow all
trespassours in the Kings name, albeit na partie persewer appeir.
Jac. 1. parl. 13. c. 140.

4. In all criminall processe, the Schiref sall keip and obserue
sic order and forme, as the Justitiar generall does. *stat. Rob. 3. c. 33.*

5. Concerning slauchter, the Schiref may charge the man-
slaier, and hald Court vpon him, and vse ane ordinar forme of
processe. *quon. attach. c. 59.*

6. He may charge him to compeir before himselfe, or before
any other depute be the King, with certification, and he failzie,
he sall be banished, and denounced rebell, and all his gudes escheit.
stat. Rob. 2. c. 4. Like as he may denunce him rebel, and put him to
the horne. *stat. Rob. 3. c. 16.*

7. Quhen any man is slane withn the Realme, the Schiref
being certified thereof, sall persew the slayer, and raise the Kings
horne on him, & the cuntrie, in his support. *Jac. 1. par. 6. c. 89. c. 95.*

Gg

8. And

Schirefs. Tit. 11.

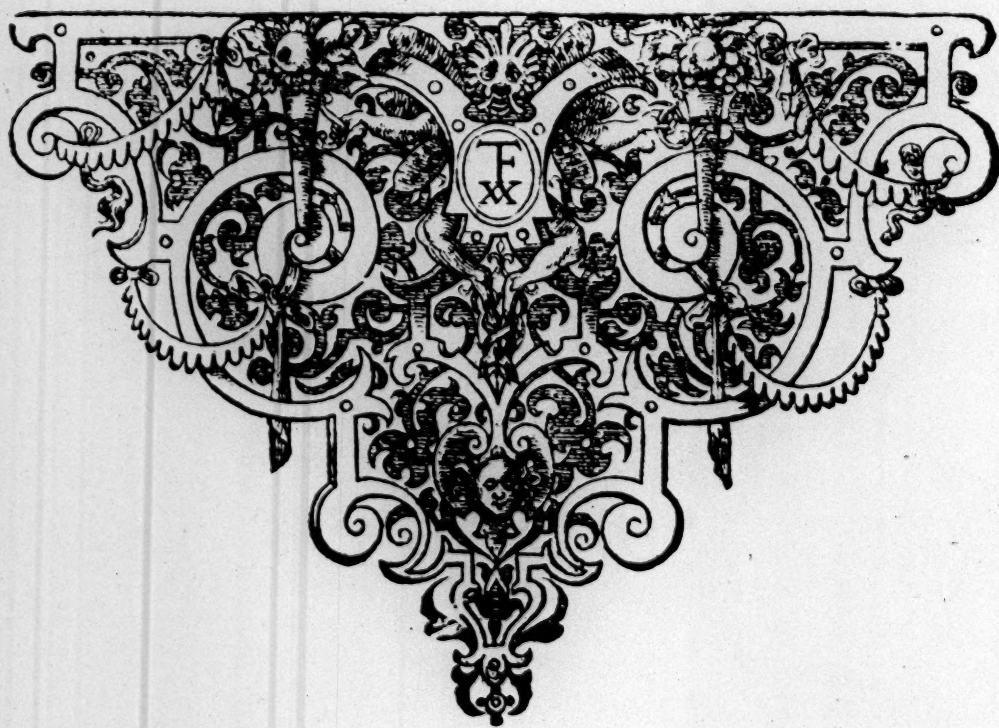
8. And gif the trespassor is taken, bot not with reid hand, the Schiref fall bring him incontinent to the King, or his Iusticiar, or fall keip him vntill he be advertised of the King, or his Iusticiars will. *Jac. 4. parl. 3. c. 28.* Notwithstanding of the tourne daies, or thrie tunnes contained in the auld lawes, granted to the persouer. *quon. attach. c. 57.*

9. Gif the trespassour is taken with reid hand, and with hot bloud, iustice fall be done vpon him, within that tunne, gif it be not ane halie day. *Jac. 1. parl. 6. c. 89.*

10. Gif he is fugitiue, and can not be apprehended. Read the precedent. *tit. 6. nu. 3.* anent the Schirefs jurisdiction in civil and criminall causes. I haue written at mair lenth, in the treatise *de Verborum significatione. verb. Schiref.* to the quhilk I remit the Reader.

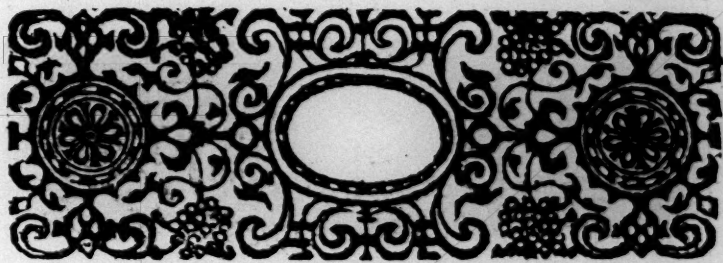
The samine jurisdiction criminall, quhilk is competent to Schirefs, be the Kings of this Realme, is given & granted to some borowes makand and constituand them Schirefs within them selues, and their bounds and territorie, sic as the burgh of *Edinburgh, Perth, &c.*

THE



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4. THE CHALMERLANE.

TIT. 12.



HE Chalmerlane hes jurisdiction within burghes, and punishes faults and trespasses committed be burgesles, craftismen and vthers, as it is manifest be the forme of the Chalmerlane air, extant. Of the quilk court the vnlawes, and amerciaments pertain to the King, and nocht to the Chalmerlane; because the Chalmerlane hath for his fie, zeirly 2. hundreth pounds, furth of the escheits of the burghis; and the amerciaments, toill, and custome of the burghis. *leg. Malc. 2. c. 4.*



5. THE CONSTABLE.

TIT. 13.



ALL transgressions committed within the wand of the Kings Mareschall, that is, within twa ligges to the Kings person (quhilk is called the chalmer of peace) pertains to the constable: and suld be punished be him, conforme to the qualitie and quantitie of the crime. *leg. Malc. 2. c. 6.* In the quhilk place, this jurisdiction is attribute to the Mareschall, & Constable. And in some auld bukes, it is noted, to pertain to the Mareschall in time of wairfair; And to the Constable in the time of peace.

Gg 2

6. EARLES,



6. EARLES, LORDS, BARONS.

TIT. 14.



ALL Earles, Lords, Barons, hes jurisdiction of crimes, and criminall causes, quha are infest, and hes power to hald their courts, with sock, sack, pitt, and gallous, toill, and thame, infangtheif, outfangtheif. *lib. 1.*

c. 4.

Bludewit.

2 They haue power to site and decide vpon tailzeis, straits, wounds, and blude: and gif they falzie to doe justice thair anent in their courts: the samyn perteins to the Sherif. *lib. 1. c. 3. 7.*

Slauchter.

3 Barons quha hes power of pitt and gallous of theift, hes power to hald courts for slauchter. *quon. attach. c. 77.*

4 Gif ane man be slane in the baronie, the Baron or his officers fall arreist him, and gif he be infest with sic freedome he fall doe the law as is before said of the Sherif: or els he fall present him to the Sherif, or his Ministers. *Iac. 1. parl. 6. c. 91. Stat. Rob. 2. c. 5.*

Theift.

5 Theift committed in the lands perteining to frieholders, haldand the samyn of Barons, may be punished be the baron, because the samyn is done within the baronie. *leg. Mal. 2. c. 9.* Bot Barons albeit they be infest with infangtheif, and outfangtheif, may doe justice vpon ane man taken with theift, that is seised thairwith, in hand haueand, or vpon back bearand: Nevertheles gif the theift is nocht fund with the fange, and in possession of the theift; it perteines nocht to the Baron to cognosce vpon sic theift, nor zit to take triall be ane Assyse, quhither he quha was takin without ane fange, is guiltie, or nocht. *quon. attach. c. 100.*

The

The Baron suld zeirly, three times hald courts, vpon malefa- *Malefactours.*
 ctours, and vthers that are of evill fame, and be an assyse of leill,
 and lawfull men, clenge, and purge the land of them. *quon. at-*
tach. c. 41. mod. ten. cur. c. 71.

All men indited for theft, or slaughter before the Iustitiar, suld *Theft and*
 be delivered to the Barons, or thair baillies, to doe iustice vpon *slaughter.*
 them in thair frie baronies without ony ranson or remeid: ex-
 cept the Kings grace, and remission happen to be gevin. *Stat.*
Alex. c. 2. 6.

All Barons haue and power to hald courts in criminall causes, *Forme of proses.*
 in thair procetsses sall keip and obserue the samine order, quhilk
 the generall Iustitiar dois obserue. *Stat. Rob. 3. c. 33. leg. Malc. 2.*
c. 8. 6.

Gg 3

LORDS





LORDS OF REGALITIE.

TIT. 15.



Egalitie is ane certain priviledge, and prerogative libertie gevin be ane King, with consent of the estates of parliament, to an spirituall, or temporall man. And because the samyn is derogative, and hurtfull to the Kings crowne and jurisdiction; na Regalitie suld be granted bot be deliverance of the parliament.

Jac. 2. parl. 11. c. 43.

Courts.

2 Lords of Regalitie spiritual, or temporall, may hald courts, and justice aires, twice in the zeir, and suld abridge, and introll thair proces, as the justice dois, in thair justice aires, *Stat. Rob. 3. c. 33. Jac. 2. parl. 3. c. 5.*

Theift, and trespassours.

3 Lords of Regalities, and all vthers spirituall, or temporall, that hes jurisdiction of courts, nor thair ballies, fall nocht sell ony trespassours, nor fine with them, for favour, loue, affection, or meid, or reward, leaue justice vndone. *Jac. 3. parl. 14. c. 98.*

4 Mairouer they fall nocht sell ony theif, or fine with him, for theift done or to be done, vnder the paine of tynsell of the Regalitie. *Jac. 1. parl. 13. c. 137.*

Slauchter.

5 Als oft as slauchter happens to be committed within Regalitie, the Lord thair of, and his officiars, fall keip, and obserue the lawes anent slauchter, as the Kings Sherif, and vther officiars dois. *Stat. Rob. 2. c. 5. Jac. 1. parl. 6. c. 93. c. 94. Jac. 4. parl. 3. c. 28.*

6 The

Lords of Regalitie. Tit. 15.

6 The Lords of Regalities, and thair ballies, hes right and priviledge, to take vp, and intromet with escheits. *Iac. 6. parl. 6. c. 75.* That is of all moveabil gudes perteing to all Induellars within Regalitie, quha are cōvicted in ane court of the Regalitie of ony crime, quhilk be the law may be punished be confiscation of moveabil gudes: Or quha are denounced Rebels, and put to the horne, at the instance of ony man dweland within the Regalitie, or without the samyn. *Iac. 6. parl. 6. c. 89. parl. 11. c. 29.*

Escheits.

7 In all causes criminall, the ballie, or steward of Regalitie: is Judge competent in all crimes quhairin the Lord or baillie of Regalitie, was custumed to be judge of befor. And gif the Kings iustitiar, first apprehends the trespassour indweller within the Regalitie, or first executes summons against him to vnderly the law. In that case, the said Lord of Regalitie, fall haue na power, to replege the trespassour fra the Kings court.

Replegiation.

8 Bot gif he please he fall be adjoind to the kings Iustitiar, and Judge with him. And in case of conviction of the trespassour, the Lord of the Regalitie; fall haue als meikill of the escheit, as he may claime be his office, and infestment. Bot gif the Lord of the Regalitie, or his baillie, hes prevented, be apprehending of the offenders person; or be his summons first directed, and execute against him, to compeir befor him, to vnderlie the law, for the crime, for the quhilk he is delated: In that case, the said baillie, or steward, fall haue power to repledge the offender, fra the Kings court, to his awn court. *Iac. 6. parl. 11. c. 29.*

9 Be the auld Law of this Realme, quhen ony Lord haue and power of replegiation, be his baillie, or procuratour, haue and his speciall power, repledgis ony man, fra ane court (as the kings court of Iustice) to his awn court, the baillie fall assigne ane certain day to the persewer, and receaue caution of him, that he fall compeir, that day to persew him, quha is repledged. And mairover the baillie, or procuratour fall leaue behind him, in the court, fra the quhilk replegiation is made, ane borgh, or cautioner, called *Culreach*, quha fall be obliffed that justice fall be done to the persewer, against the defender, in the court, to the quhilk the defender is repledged. And gif the baillie, or his Lord failes thair anent, and dois nocht Iustice in his court, as effeirs of law: the Lord of the Regalitie, fall tyne his court, for an zeir, and ane day: and the samyn fall pertein to the King: And the defender fall

*The forme of
Replegiation.*

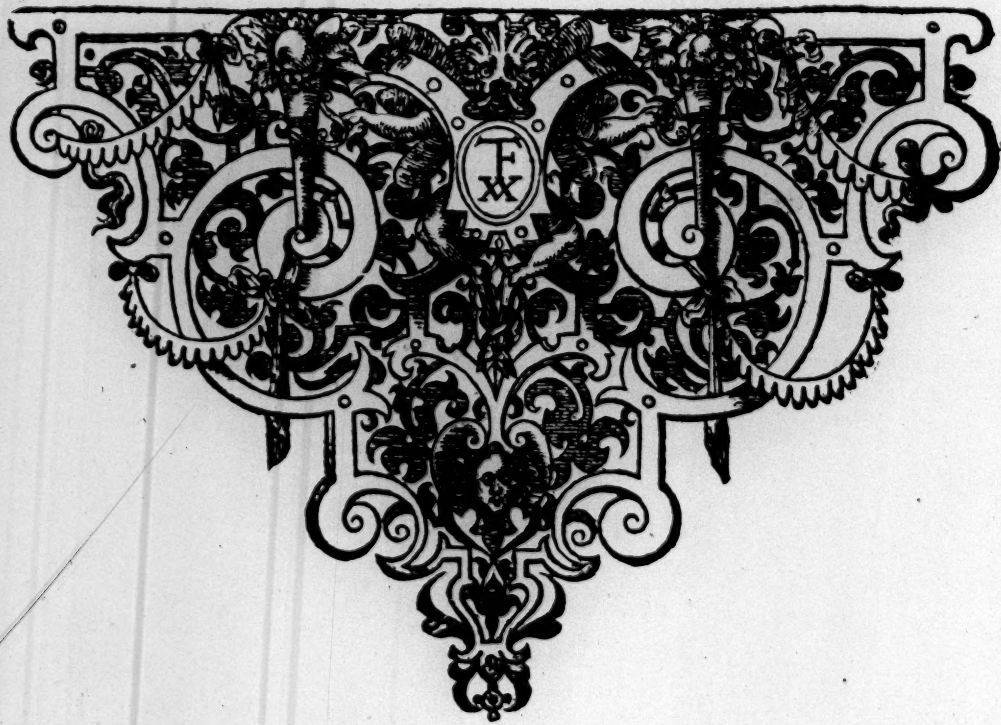
Lords of Regalitie.

fall retorne, to the first court, fra the quhilk he was repleged, thair to receaue Iustice: Or els his *Culreach* fall make answer for him. *quon. attach. c. 8.*

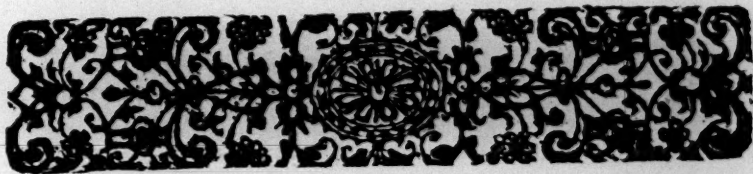
*Punishing of
trespassours.*

10 In searching, seiking, taking, & punishing of malefactours, all Lords of Regalities, and thair baillics, suld assist, and concur, with the Sherifs, and vthers officiars. Otherwaies the baillics suld be punished be the King, and his generall Iustitiar, be tynsell of all their lands, and escheit of all thair gudes, and thair liues to be in the kings wil, or Lord of the Regalitie. And gif the Lords of the Regalitie, punishes nocht thair baillics, being culpable: thay fall be punished be the king, be tynsell of thair lands, and privileges of thair Regalities. *Stat. Rob. 2. c. 14. Stat. Rob. 3. c. 45.*

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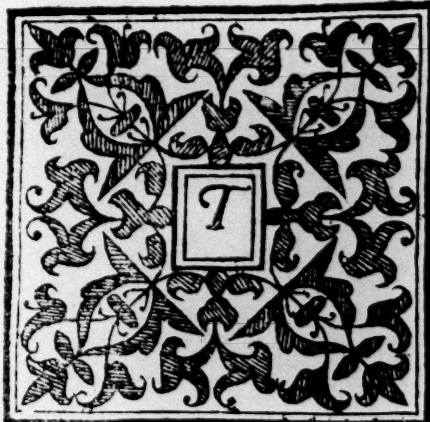


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COMMISSIONERS.

TIT. 16.



THE King may make deputies be his commission, vnder the testimoniall of the great seale, of well experimented men, quha with ane depute of the thesaurer, and ane vther of the justice clerks, shall haue justice Aires, of Courts, *Iac. 6. parl. 11. c. 81.*

2 Commission is granted, for the better triall of common forners, vagabunds, maisterfull beggers, fenzeit foolis, counterfit Egyptians. *Iac. 6. parl. 12. c. 147.*

3. Commissions of Iustitiarie, sould nocht be granted generally, or for langer space, nor the carand in hand, may be conveniently persited: And that vpon caution to produce the proces, and pay the part of the commoditie, quhik be the commission, is destinate to the Kings vse. *Iac. 6. parl. 12. c. 126.*

4. All commissions of Iustitiarie, sould be maid be signatures, vnder the quarter seale, and Respondeis to be maid theirvpon. And the obtainer theirow, shall finde caution vnder the paine of fourtie pundis, that he shall within fourtie dayes, report ane testimoniall of his diligence. *Iac. 6. parl. 11. c. 75.*

5. Na commission sould be granted to proceed on slauchter, bot the Iustitiar generall, and his deputies, to proceed theirvpon. *Iac. 6. parl. 11. c. 75.*

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Συμβιβασμα Βασιλικόν.

R E X.

C Harto-phylax jussu nostro, procerumque rogatu,
Regia Cimmeriis tenebris edicta reduxit,
Semi-sopita diu, & tristi prope proxima leto
Excita, sexcentos postquam latuere per annos,
Sedibus optatis dispersa coarctat in vnum;
Distinxit brevibus diorismis mista secando,
Obscurosque notis versus oneravit opimis,
Clamosi juris latebrosa ænigmata solvens;
Sacris confirmat Scripturæ consona chartis,
Nostra inter sese confert; exótica nostris
Plurima conglomerat, plenâ jam margine libri;
Obstrusas etymis illustratque ordine voces,
In facilem porro contraxit cuncta synopsis,
In nostræ gentes linguam translata, latinâ.
Omnia quæ tandem nobis patriæque dicata,
Et malè scripta prius, turpi squalentia musco,
Subjecit Prælo; atque typis excudit ahenis.
Abdita perpetuos multorum promisit in usus,
Solliciti ut versent manibus noctuque diuque
Patroni, & queruli poterint versare clientes;
Causidicosque suos doceant, si forte pererrent,
Aut cupidi frustra lites producere pergant;
Ære patrocinium vitiantes fraude malignâ:
Sed nec adhuc cessat magno molimine plura
Moliri, priscis nova nam superaddidit istis.
Primum quâ methodo tractentur & ordine causæ,
Summo jura foro regni, sanctoque Senatu.
Quot species exstent damnosi criminis, & quæ,
Ultrices maneant noxas poenæque sequaces,
Judice plectentur vel sub quo vindice fontes.
Gratum opus, optatumque diu produxit in orbem,
Ut serâ, & meritò, quod posteritate probetur,
Et paret æternum nomen, laudemque perennem,
Nisi celebres desint nobis doctique Poëtæ.

Conscripti *Patres*, iuris legumque periti,
(Te primum appello Moderator summe Senatus)
Dicite pro meritis quânam mercede rependam,
Tam grave servitium *Skenai*, totque labores?

H h 2

Rex

SENATVS.

Rex invicte vale, titulis ornate superbis,
Veridicæ Scotis primum quo præside leges,
Et pia Relligio nobis illuxerat olim;
Civiles revocas etiam renovasque vetustas;
Cui non Thuli-colæ tantum parere parati,
Sed modò das cunctis generosis fræna Britannis,
Judicio pollens, lator iustissime legum;

Vera canis, tineas, blattasque excussit avitis
Legibus, expurgans olido marcente veterno:
Fortis ut immundas verrit scoparius ædes,
Sordibus ejectis, Hyblæis floribus omnem
Spargit humum, ac grato thuris perfundit odore.

Dum peragunt alij torpentes otia, segnes,
Aut teneros carpunt placidè cum conjuge somnos,
Aut capiunt lepores canibus, cervosve molossis,
Florea vel gnavi perlustrant rura coloni,
Vmbrosos cingunt longave indagine saltus,
Aut alias lubricæ consumunt tempora vitæ;
Insomnes noster potius producere noctes,
In commune bonum voluit pallefcere chartis,
Priscarum volvens ter dena volumina legum.
Herculeas superans (chartacea lucta) labores.
Ecce tuas partes tibi soli neimpe reliquit,
Exanimis tandem jubeas spirare per auras,
Tu vitâ dones, dedit hic ut luce fruantur.

Quando tibi nolis leges propinet inemptas,
Scotigenam satis est si Scotica dona rependant.
Tantumdem obrizi *Crausur dia* parturit auri,
Flexilis unde frequens erumpit lamina tesquis,
Quàm Tagus auricolor duris eduxit *Iberis*.
Nec minus argenti vernans *Gareothia* spondet,
Cui fons ebullit nitidis argenteus vndis,
Quàm Cræso rutilus dederat Pæstolus arenis;
Atque metalliferis ejecit fluctibus Hermus.
Sic tibi *Dounduri* viridis juga summa refulgent;
Memefia tellus, australis & *Eskia* flumen.
Notior ac alibi nec non *Dounpendria* cautes,
Lanigeræ hîc pecudes multis balatibus errant,
Quarum candidulos illic flâvescere dentes
Cernere erit passim fulvo testante colore;
Fabula ne fiat, cuncti se scire fatentur.

Quid moror? Aurifices aliunde accersere peritos,
Condita de cæcis auri ramenta cavernis
Effodient (magnis si fas componere parva)
Tâm vestræ fertur locuples opulentia gentis,
Scotia brumalis tostis æquabitur Indis.

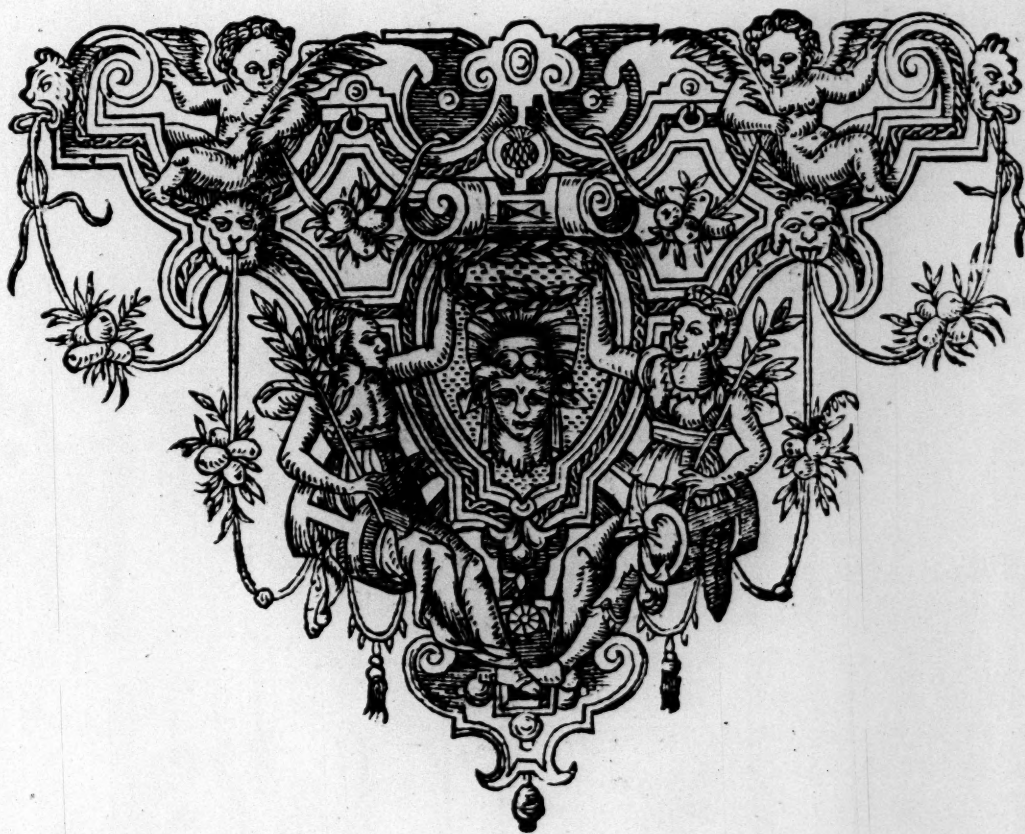
Proferet

Proferet interea tuus hic argenteus amnis,
Quique scatent alij valles montesque metallis,
Infecti factique argenti pondus & auri,
Irum ut munificus quemvis ditaris egenum.
Auri sacra fames, Regina pecunia fertur,
Quorum avida atque tenax semper studiosa senectus.

Has reuult *Skenæus* opes, nec talia curat
Præmia, quem minimè genuit natura petacem,
Hæc licet ignari captet pars maxima vulgi.
Prætereà proprias Regum remanere fodinas,
Ante tuos tritavos statuunt Comitæ gazas,
Quas minuisse nefas, & inexcusabile crimen
Chartophylax censet; toties augere paratus,
Priscos archivi redditus scrutatus ab imo:
Magnificos siquidem Regalia munia sumtus
Non solum belli sed pacis tempore poscunt.

Quid superest igitur? nisi des quod jure licebit,
Nemine, quale velis (potis es) neque numine læso,
Mnemofynon, cuius poterint meminisse nepotes.

JACOBVS CARMICHAEL, *Ecclesiæ*
quæ Hadinxæst, Pastor.





Faultes escaped in the Printing.
Corrected

Reg: Majest.

Lib. 2.

Lib. 3.

Quon. Attich.

Burrow Lawes.

Forme of Proces.

C. 11. vers. 15. frieman. C. 15. v. 9. l. 1. of the gift of. C. 16. v. 52. l. 1. deduced.

C. 10. v. 9. Bot it is sufficient the thing was haill the time of the contract.

C. 48. v. 14. l. pen. may haimehald that best.

C. 53. tit. land. Rob. 3. C. 18. v. 4. l. 2. intervall.

C. 6. v. 7. l. 1. found. C. 16. v. 6. l. 4. resile. C. 35. v. 12. l. vlt. refounded.

C. 2. v. 4. l. 2. Ilk barrell of herring and quhite fish, nine gallons.

All the letters of these Alphabets are Termions, or thrie shectes in
one, except Hh in the last Alphabet.



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